NAFR

HIGH COURT of CHHATTISGARH, BILASPUR
MAC No. 655 of 2017

1. Tarachand Sahu S/o Late Hirderam Sahu, Aged About 45 Years
2. Smt. Malti Sahu W/o Shri Tarachand Sahu, Aged About 43 Years
3. Rajkumar Sahu S/o Tarachand Sahu, Aged About 19 Years
   all are R/o Village & P.O. Kandel, Police Station Arjuni, Tahsil and District Dhamtari, Chhattisgarh ....(Claimants).

---- Appellants

Versus

1. Munna Lal Sahu S/o Bhulauram Sahu, Aged About 47 Years R/o Makeshwar Ward Dhamtari, District Dhamtari, Chhattisgarh ...... (Driver And Owner Of Offending Vehicle Jeep Bearing Registration No. C.G.17 D 1743).
2. Branch Manager, The Oriental Insurance Company Limited, M.B.Trade Centre, Nearby Ghadi Chowk, Dhamtari, Tahsil And District Dhamtari, Chhattisgarh ....(Insurer Of Offending Vehicle Jeep Bearing Registration No. C.G.17 D 1743).

---- Respondents

For Appellant	:	Shri Anil Gulati, Advocate.
For respondents No.2	:	Smt. Chitra Shrivastava, Advocate.

SB: Hon'ble Shri Justice P. Sam Koshy
Order On Board

18/07/2017

1. This is claimant's appeal under Section 173 of the Motor Vehicles Act seeking enhancement of compensation against the award dated 22.02.2017 passed by the Additional Motor Accident Claims Tribunal, Dhamtari (in short, the Tribunal) in Claim Case No.13/2016. Vide the impugned award, the Tribunal for the death of deceased Bhupendri, aged 22 years, has awarded compensation to the tune of Rs.2,55,000/-. It is this award which is under challenge in this appeal.
2. The date of accident resulting in death of deceased Bhupendri Bai due to rash and negligent driving of driver-cum-owner i.e. respondent No.1 is not in dispute. It is also not in dispute that the offending vehicle was insured with the respondent No.2.

3. The ground of challenge raised by the appellant in this appeal is that the Tribunal has not properly appreciated the wages which the deceased was drawing at the time of accident. The Tribunal has also not granted any compensation under the head of future prospects. Likewise, the multiplier applied also is erroneous as in the case of death of 22 years old person, the multiplier ought to have been 18 whereas, the Tribunal has applied multiplier of 10. To further substantiate the contention, counsel for the appellant referred to document Ex. P/9 and Ex. P/10 which are the order of appointment as well as the salary slip of the deceased to prove that she was an employee of M/s Hinduja Global Solutions Ltd. where she was appointed as Customer Support Officer and that her gross salary as per Ex. P/10 was Rs.6964/- per month. The Tribunal ought to have believed the said two documents accepting the employment and the wages of the deceased for the purpose of quantifying the compensation which however the Tribunal refused to accept. He further referred to judgment of Supreme Court in case of Amrit Bhanusali Vs. National Insurance Co.Ltd. & Ors., 2012(11)SCC738 which deals with the issue of determination of multiplier in a death case.
4. It was further submitted that since at the time of accident the deceased was getting salary of Rs.6964/-. The said income would had been definitely increased in due course of time. Therefore, she was also entitled for compensation under the head future prospects. Likewise, Rs.15000/- awarded under the other heads is also on the

lower side and the same deserves to be enhanced on this ground as well prayed for modification of the award suitably.

5. Counsel appearing for the respondent-insurance company however opposes the appeal and submits that considering the facts that the deceased was a 22 years old girl, in all likelihood there was possibility of her getting married very soon, therefore, the Tribunal has rightly denied future prospects. Further, since the claimants are parents who would not had been dependent upon the deceased, and therefore, considering the age of the parents, the multiplier of 10 applied is also justified.

6. So far as salary part is concerned, it was contended that since the two documents have not been properly proved before the Tribunal and there were certain deductions being made from the monthly salary, the monthly salary of Rs.**4000**/- taken by the Tribunal cannot be said to be perverse and thus, prayed for rejection of the appeal.

7. Having considered the rival contentions put forth on either side and on perusal of records, what is undisputed is the accident resulting in the death of deceased and the offending vehicle being insured by the respondent No.2. Now so far employment and salary slip of deceased is concerned, the claimants have duly examined the officer of Hinduja Global Solutions Ltd. namely Nitin Singh, AW-3, Deputy Manager of said company to prove the order of appointment as well as salary slip and the was duly exhibited before the Tribunal and the said document does have signature of the vice President, Human Resources Department of said company. The finding of the Tribunal

that there was no signature on these documents therefore cannot be accepted. There is also no reason to disbelieve the version of AW-3 who has proved the order of appointment and salary slip of the deceased.

8. True it is that there are certain deductions being made and even after those deductions, the net salary of the deceased would be more than Rs.6000/- in a month. Therefore, the Tribunal ought to have taken atleast Rs.6000/- as monthly wages of the deceased for the purpose of quantifying the compensation. It is ordered accordingly.

9. The law by now well settled so far as calculation of compensation under future prospect is concerned right from Sarla Verma (Supra) to Rajesh & Ors. Vs. Rajvir & Ors. The Supreme Court has been consistently of the view that compensation shall include the future prospects more particularly when the deceased/injured are of the salaried category.

10. Considering the fact that deceased in the present case was a 22 years old girl and that there was all likelihood of her getting married soon, this court is of the opinion that so far as future prospect is concerned, it would be appropriate if 25 percent is added to the wages of the deceased under the head of future prospect.

11. Thus, taking Rs.6000/-as monthly wages of the deceased and adding 25 percent of it towards future prospect, the amount would become Rs.7500/-. If the said amount is multiplied with 12, the amount reaches to Rs. 90,000/-. If 50 percent of it is deducted towards personal expenses, the figure would come to Rs.45000/-. After

applying multiplier of 18 in view of judgments of Supreme Court in cases of Sarla Verma (Supra) and Amrit Bhanusali (Supra) as would be applicable for the death of 22 years old, the amount comes to Rs.8,10,000/-. It is ordered accordingly.

12. The claimants shall be entitled for a compensation of Rs.8,10,000/- under the head of loss of dependency instead of Rs.2,40,000/- as awarded by the Tribunal.

13. So far as compensation under other heads are concerned, this court is of the opinion that the amount of Rs.15,000/- awarded by the Tribunal for funeral expenses, loss of love and affection and estate are extremely on lower side and this court in the given factual matrix of the case feels it proper to award a consolidated lump sum compensation of Rs.1,00,000/- under the other heads instead of Rs.15,000/- as awarded by the Tribunal.

14. In all, the claimants shall be entitled for a total compensation of Rs.9,10,000/-instead of Rs.2,55,000/-as awarded by the Tribunal i.e. Rs.6,55,000/- over and above. The above enhanced amount i.e. Rs.6,55,000/- shall also carry interest at the same rate as has been ordered by the Tribunal. Rest of the conditions mentioned in the award shall remain intact.

15. The respondent No.2-insurance company is granted two months time to deposit the enhanced amunt of compensation before the concerned claims Tribunal.

Sd/-
(P. Sam Koshy)
Judge