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HIGH COURT OF CHHATTISGARH AT BILASPUR

MISC. APPEAL (C) NO. 688 OF 2017

1. Chandrika, S/o Rajwa Satnami, aged about 44 years, Occupation-Teacher.
2. Smt. Tulsabai, W/o Chandrika Satnami, aged about 40 years,

Both are R/o Village- Munarbod, Tahsil/Thana- Bemetara, P.O, Balsamund, District Bemetara (C.G.)

… Appellants

Versus

1. Paramjeet Singh, S/o Hemant Banjare, aged about 30 years, R/o Village Pausari, Police Chauki, Chandnu, Thana- Nandghat, District Bemetara (C.G.)
2. Hemant Kumar, S/o Ankalu Banjare, aged about 50 years, R/o Village- Pausari, Police Chauki, Chandnu, Thana- Nandghat, District Bemetara (C.G.)
3. Branch Manager, Oriental Insurance Company Limited, Divisional Office, Parmanand Bhavan, Rajendra Park Chouk, District Durg (C.G.)

… Respondents

For Appellants	:	Mr. Samir Singh, Advocate.
For Respondent No.3	:	Mr. Hanuman Prasad Agrawal, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

21/08/2017

1. The present is an appeal under Section 173 of the Motor Vehicles Act, 1988, preferred by the Claimants, seeking enhancement of the compensation awarded by the Additional Motor Accident Claims Tribunal, Bemetara, in Claim Case No. 110 of 2016.

2. Vide the said impugned award, the Tribunal, in a proceeding under Section 166 of the Motor Vehicles Act, in a death case, has awarded a compensation to the Appellants-Claimants to the tune of Rs. 4,18,440/- with interest thereon at the rate of 6% per annum till realization of the compensation awarded.

3. Contention of the learned Counsel for the Claimants is that the income of the deceased Vikram which has been assessed by the Tribunal is extremely on the lower side and the same deserves for enhancement.

Likewise, the multiplier applied by the Tribunal also deserves to be modified in terms of the judgment of the Hon'ble Supreme Court in the case of **Sarla Verma (Smt.) and others** v. **Delhi Transport Corporation and Another** [2009 (6) SCC 121] and other subsequent decisions. Similarly, according to the Claimants, the amount of compensation awarded under the conventional heads also deserves to be enhanced as the same is also on the lower side.

4. Learned Counsel for the Insurance Company i.e. Respondent No.3 however opposes the appeal and submits that the plain reading of the award would show that it is just and reasonable award considering the evidence which have come on record also taking into account the age of the deceased and thus the Insurance Company prayed for dismissal of the appeal.

5. Having heard the rival contentions put forth on either side and on perusal of the record, the factual matrix of the case so far as the accident occurred on 26.11.2016, the resultant death of deceased Vikram and the offending vehicle, i.e., Tractor-Trolley No. CG22-AC/0716 & 1825, belonging to Respondent No.2 and driven by Respondent No.1, are not in dispute. Likewise, it is also not in dispute that the offending vehicle was duly insured with the Respondent No.3-Insurance Company at the relevant point of time.

6. All that we have to now see is, whether the calculation of the compensation was justified.

7. The Tribunal in the instant case has taken the notional income of the deceased as Rs. 3816/- per month. According to the Claimants, the deceased at the relevant point of time was a student of ITI and that he was undertaking the ITI Course in the Electrician Trade and he also used to do part time job with which he was earning at least around Rs.200-300/- a day. However, the Tribunal as taken into account the notional income roughly Rs.100/- a day which is on the lower side and deserves for enhancement.

8. Considering the facts and circumstances of the case, it is anybody's guess that on the date of accident i.e. November, 2016, the minimum wages even of an unskilled labour was more than Rs.200/- a day and the deceased who was a Technician undergoing his ITI course in the Electricial Trade and which is too technical a field and where under normal circumstance even if the minimum is accepted, the deceased would have earned Rs.200/- a day which would make the monthly income of Rs.6000/-. Therefore for the purpose of calculation of compensation, the income of the deceased which ought to had been taken by the Tribunal as Rs.6000/- per month instead of Rs.3816/- and it is thus held.

9. Likewise, so far as the applicability of the multiplier is concerned, right from the judgment of the Hon'ble Supreme Court in **Sarla Verma** (supra) up to the decision in **Amrit Bhanu Shali & Others** v. **National Insurance Company Limited & Others** [2012 (11) SCC 738], it has been settled that the multiplier which has to be applied should be considering the age of the deceaed not the age of the claimants. In the instant case, since the deceased was aged around 19 years, the multiplier ought to had been 18 instead of 10 which has been applied by the Tribunal and it is thus held.

10. Thus, if Rs.6000/- is taken as monthly income of the deceased and if 50% of Rs.6000/-, i.e. Rs.3000/-, is added towards the future prospects, the amount would come to Rs.9000/- per month and Rs.1,08,000/- yearly which after deducting 50% towards the personal expenses would reach to Rs.54,000/- and which if multiplied by applying the multiplier of 18, the net figure would come to Rs.9,72,000/-. It is accordingly held that the

Claimants shall be entitled for a compensation of Rs.9,72,000/- instead of Rs.3,43,440/- as awarded by the Tribunal, towards loss of income and dependency.

11. So far as the amount of Rs.75,000/- awarded by the Tribunal under the other heads is concerned, considering the decisions of the Hon'ble Supreme Court in the recent past, more particularly, taking into account the judgment in the case of **Rajesh and Others** v. **Rajbir Singh and Others** [2013 (9) SCC 54], the amount of compensation awarded under the other conventional heads, in the opinion of this Court, ougut to had been Rs.1,00,000/- instead of Rs.75,000/- and it thus held. Accordingly, the Claimants are held to be entitled for a compensation of Rs.10,72,000/- instead of Rs.4,18,440/- as awarded by the Tribunal.

12. Resultantly, the appeal is allowed and the impugned award is modified to the extent that the Claimants shall be entitled to a total compensation of Rs.6,53,560/- in addition to what has already been awarded by the Tribunal. The said enhanced amount shall also carry the interest at the same rate as has been awarded by the Tribunal. Rest of the conditions stipulated in the award shall remain intact.

Sd/-
(P. Sam Koshy)
Judge

/sharad/