

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Misc. Appeal (C) No. 695 of 2017**

1. Smt. Dhan Kunwar W/o Lakhanlal, aged about 40 years, R/o Village Bankimongra, Tahsil Katghora, District Korba, Chhattisgarh
2. Kiran Kumari S/o Lakhan, aged about 20 years, R/o Village Bankimongra, Tahsil Katghora, District Korba, Chhattisgarh
3. Yashwant Kumar S/o Lakhan Lal Sahu, aged about 14 years, Minor through Legal Natural Guardian Mother Smt. Dhan Kunwar, R/o Village Bankimongra, Tahsil Katghora, District Korba, Chhattisgarh
(Claimants)

----Appellants**Versus**

1. Vinod Kumar Yadav S/o Gendram Yadav, aged about 22 years, R/o Village Bankimongra Basti, Bankimongra, Tahsil Katghora, District Korba, Chhattisgarh(Driver of offending vehicle Tractor bearing Registration No. C.G.12 F 1621 and Trolley No. C.G.12 F 1622)
2. Goverdhan Singh S/o Angat Singh, aged about 46 years, R/o Village Bankimongra Basti, Bankimongra, Tahsil Katghora, District Korba, Chhattisgarh(Owner of Offending Vehicle Tractor Bearing Registration No. C.G.12 F 1621 and Trolley No. C.G.12 F 1622)
3. United India Insurance Company, through Division Manager, United India Insurance Company, Division Office- Sitamani Main Road, Korba, District Korba, Chhattisgarh(Insurer of Offending Vehicle Tractor Bearing Registration No. C.G.12 F 1621 and Trolley No. C.G.12 F 1622)

---- Respondents

For Appellants	:	Ms. Nand Kumari Kashyap, Advocate
For Respondent no.3	:	Shri B. N. Nande, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order On Board****19/07/2017**

Present is an appeal by the claimants under Section 173 of the Motor Vehicles Act seeking for enhancement of the award. The challenge in the present appeal is the award dated 23.01.2016 passed by the Additional Motor Accident Claims Tribunal, Katghora, District Korba (CG) in MACC No. 87 of 2013.

2. Since, the accident, the death of deceased Harnarayan as a result of the said accident, the age of the deceased being 22 years, the accident arising out of the vehicle belong to respondent no.2, driven by respondent no.1 and insured with respondent no.3 at the relevant point of time are not in dispute, this Court is not entering into the factual details of the case and straightway ventures to decide the appeal on its merit.

3. The ground of challenge by the appellants is that the Tribunal has failed to appreciate the fact that the accident occurred in June 2013 and at that time the minimum wage of a labour was more than Rs.200 a day i.e. Rs.6,000/- a month. Therefore, the Tribunal has committed an error in accepting the wages of the deceased at Rs.3,000/- a month that means the daily wage of the deceased at the relevant point of time was only Rs.100/- a day. Counsel for the appellants submits that the Tribunal has also erred in law in not granting any compensation under the head of future prospects. According to the counsel for the appellant, the compensation awarded under the other heads also deserves to be enhanced as the amount awarded as a consolidated figure of Rs.50,000/- in all is too meager an amount. Thus, prayed that the impugned award may be suitably modified and enhanced.

4. Counsel for the Insurance Company however opposing the appeal submits that the labour was an unmarried boy aged about 22 years, and the claimants are the mother, brother and sister of the deceased, therefore, the compensation awarded by the Tribunal is fair and reasonable and the same does not warrant any interference.

5. Having considered the contentions put forth on either side and on perusal of the record what clearly strikes in the mind of the Court is that admittedly the deceased was working as a labourer. The date of accident is 06.06.2013. It is any-body's guess that in June 2013, the minimum wage of a unskilled labour was more than Rs.200 a day i.e. more than Rs.6,000/- a month. Therefore in all practical purposes, the Tribunal should have taken at least Rs.6,000/- per month as wages of the deceased. The impugned award thus is modified to the extent that for the purpose of calculating compensation, the wages of the deceased would be Rs.6,000/- in stead of Rs.3,000/- as assessed by the Tribunal.

6. So far as the grant of compensation under the other heads is concerned, considering the amount granted by the Tribunal under the other heads as well as for cremation which comes to Rs.75,000/-, this Court is of the opinion that the said compensation so granted does not warrant any interference.

7. Further considering the series of decisions of the Supreme Court right from the case of **Sarla Verma (Smt) and others v. Delhi Transport Corporation and another** reported in **(2009) 6 SCC 121** to the case of **Rajesh and Others vs. Rajbir Singh and others** reported in **(2013) 9 SCC 54** it is settled position of law that if the employment part of the deceased is not in dispute and that there is evidence to show that the deceased was having a source of income, the amount would definitely have increased in due course of time. In the instant case, the deceased being a mason was earning more than Rs.200 a day and by efflux of time he would have received much more wages, therefore, the Tribunal ought to have granted compensation calculating 50% of his income towards future prospects also.

8. Thus, accepting Rs.6,000/- as the monthly wages of the deceased if 50% is added towards future prospects, it would be Rs.9,000/- a month of which after deduction of 50% towards personal expenses it comes to Rs.4,500/- a

month and Rs.54,000/- a year. If the said amount is multiplied by applying a multiplier of 18, the amount would be Rs.9,72,000/-. Thus it is ordered that the claimants shall be entitled for compensation of Rs.9,72,000/- in stead of Rs.3,24,000/- that has been assessed by the Tribunal under the loss of income. The other amount awarded by the impugned award including that of interest part shall remain intact. The enhanced amount shall carry interest at the same rate as awarded by the Tribunal.

9. With the aforesaid modification to the impugned award, the present appeal stands allowed.

**Sd/-
(P. Sam Koshy)
JUDGE**