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HIGH COURT OF CHHATTISGARH, BILASPUR

Misc. Appeal (C) No. 1274 of 2015

Smt. Shanti Bai Manikpuri Wd/o late Itwari Das, aged about 54 years, R/o Chakradhar Nagar, Devendra Nagar, Raipur, District Raipur (Chhattisgarh).........(Claimant)

---- Appellant

Versus

1. Rafiq Ahmad S/o Nazir Ahmad R/o Boriyakhurd, Atal - Avas, 829-L, Boriyakhurd, Raipur, District Raipur (Chhattisgarh) presently R/o Sect - 01, near Zubesta Hospital, Devendra Nagar, P. S. Devendra Nagar, Raipur, District Raipur (Chhattisgarh).......(Non applicant driver of vehicle No. C G 04 T 9824)
2. Ejaj Khan S/o Musa Khan, R/o Indira Avas Colony, H. No. E-19, Trimiurti Nagar, Devendra Nagar, Raipur District Raipur (Chhattisgarh)........... (Owner of vehicle No. C G 04 T 9824)
3. Royal Sundaram Alliance Insurance Co. Ltd. through - In Charge Officer/ Competent Officer, Chawla Complex, Meznine Floor, Sai - Nagar, Devendra Nagar, Raipur District Raipur (Chhattisgarh)...........(Insurer of vehicle No. C G 04 / T 9824)

---- Respondents

For Appellant	:	Shri Amiyakant Tiwari, Advocate
For Respondent no.3	:	Shri Rishabh Pandey under instruction of Shri N. K. Thakur, Advocate

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Hon'ble Shri Justice P. Sam Koshy

Order On Board

20/09/2017

Heard on I.A. No.01/2015 under Section 5 of limitation Act, 1963.

2. For the reasons assigned in the said application and finding them to be satisfactory, I.A. No.01 is allowed and the delay of 3 days in filing the appeal stands condoned.

3. Present is a claimant's appeal under Section 173 of the Motor Vehicles Act seeking for enhancement of the compensation. The challenge is to the award dated 29.06.2015 passed by the Chief Motor Accident Claims Tribunal, Raipur (CG) in Claim Case No. 153 of 2012. Vide the impugned award the Tribunal has granted a compensation of Rs. 2,07,000/- with interest @ 6% per annum from the date of application.

4. Counsel for the appellant assailing the award submits that the income assessed by the Tribunal is on the lower side. Likewise, compensation paid under the conventional head is also on the lower side. He submits that the Tribunal has not considered the future prospects while quantifying the compensation, thus, prayed for enhancement of the compensation suitably.

5. Counsel appearing for the Insurance Company opposes the appeal on the ground that the deceased in the instant case was a divorcee and the appellant is the mother of the deceased, therefore the amount of compensation awarded is in accordance with the evidence which has come on record and the same does not warrant any interference.

6. Having heard the contentions put forth on either side and on perusal of the record this Court is of the opinion that undisputedly the status of the deceased at the time of accident was that of a driver and it is any body's guess that in the year 2012, the minimum income of a driver could not have been less than 5,000/- a month. Therefore, this Court is inclined to accept Rs.5,000/- as the monthly income of the deceased in stead of Rs. 3,000/- as assessed by the Tribunal. So far as the future prospects is concerned, it is by now well settled by a series of decisions of the Hon'ble Supreme Court and this Court is inclined to accept 50% of the income towards future prospects. This makes the monthly income of the deceased to be Rs.7,500/- and the yearly income to be Rs.90,000/-. Considering the fact that the deceased was a divorcee, 50% of his income would be deducted towards personal expenses which brings the yearly income to Rs.45,000/-. If the said amount is multiplied by applying the multiplier of 15, the amount comes to Rs.6,75,000/-. Thus, the claimant would be entitled for an amount of Rs.6,75,000/- towards loss of dependency. Further, under the conventional head also, this Court is of the opinion that the amount of Rs.45,000/- awarded is on the lower side considering the year of death. Therefore, this Court quantifies a lump sum compensation of rupees one lakh under conventional head. Thus, the appellant shall be entitled for a total compensation of Rs.7,75,000/- in stead of Rs.2,07,000/- as awarded by the Tribunal.

7. The enhanced amount shall also carry interest at the same rate as has been fixed by the Tribunal. The order of pay and recovery as has been held by the Tribunal shall remain as it is. Considering the fact that the claimant is a widow, it is directed that the entire amount which would be deposited by the Insurance Company shall be deposited by way of a fixed deposit in a nationalized Bank or the bank where the claimant has an account, with permission for withdrawal of the interest that would accrue on the said total amount.

8. The appeal thus stands allowed.

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

Bhola