

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MAC No. 650 of 2015

1. Smt. Jayshree Rathore W/o Late Shri Jagdish Rathore Aged About 44 Years

2. Umesh Rathore S/o Late Shri Jagdish Rathore Aged About 19 Years

(Now attained the age of majority)

3. Smt. Lilawanti W/o Late Shri Himmat Bhai Rathore Aged About 64 Years

All R/o House No. 5, Ward No. 13, Kumhari, Tahsil Patan, District- Durg, Chhattisgarh

---- Appellants

Claimants

Versus

1. Virendra Kumar Patel S/o Ram Kinker Patel Aged About 35 Years R/o Trimurty Nagar, Jabalpur, District- Jabalpur, M.P., Permanent Address : Village - Balhod, P.S. Manpur, District- Umariya, Madhya Pradesh

2. Vaibhav Upadhyay S/o Anil Upadhyay R/o Village : Kudari, District- Umariya, Madhya Pradesh

3. National Insurance Company Ltd. Through : Its Branch Manager, Branch No. -2, 495, Madhatal, Narmada Chowk, Jabalpur M.P., Through Its Local Branch-Divisional Manager, Akash Ganga Campus, Supela, Bhilai, Tahsil & District- Durg, Chhattisgarh

---- Respondents

For Appellants	:	Shri MPS Bhatia, Advocate.
For Respondent No.1 & 2	:	None.
For Respondent No.3	:	Shri B.N. Nande, Advocate.

Hon'ble Shri Justice Pritinker Diwaker

Hon'ble Shri Justice R.P. Sharma,

Judgment On Board By Justice Pritinker Diwaker

25/07/2017

This appeal arises out of the award dated 13.3.2015 passed by Additional Motor Accident Claims Tribunal, Durg in Claim Case No.1976/2013 whereby in a death case awarding compensation of Rs.7,33,400/- in favour of the claimants.

02. Brief facts of the case are that on 14.2.2013 when deceased Jagdish Rathore was travelling in Indigo car, the same was dashed by the offending vehicle truck resulting in his death. At the time of death, the deceased was aged 46 years and was working as Supervisor in a private company.

03. A claim case was filed by the claimants, three in number, claiming compensation of Rs.51.50 lacs under various head, inter alia, pleading that on account of rash and negligent driving of the offending vehicle, the deceased lost his life and therefore, they are entitled for compensation as claimed.

04. Respondent/insurance company contested the claim on general grounds and denied its liability to pay any compensation.

05. The Tribunal by the impugned award awarded total compensation of Rs.7,33,400/- in favour of the claimants.

06. Counsel for the appellants submits that the Tribunal has erred in law in calculating the monthly income of the deceased and further, under the conventional heads also adequate compensation has not been awarded.

07. On the other hand, counsel for the insurance company submits that the compensation awarded by the Tribunal being just and proper needs no enhancement.

08. Heard counsel for the respective parties and perused the material on record.

09. Though the claimants have pleaded monthly income of the deceased as Rs.11,000/- including the allowances but considering the nature of the evidence available on record, we are of the view that monthly income of the deceased can be treated as Rs.8,000/- and not Rs.11,000/-. Thus, taking the monthly income as Rs.8,000/- and considering the age of the deceased i.e. 46 years, after adding 30% (Rs.2,400/-) towards future prospects, the monthly income comes to Rs.10,400/-. As the deceased was survived by three members, after deducting 1/3rd (Rs.3,466/-) towards his personal and living expenses, the monthly loss of dependency comes to Rs.6,934/- i.e. Rs.83,208/- per annum. In this case, multiplier of 13 would be applicable and as such, after applying this multiplier, the total loss of dependency is worked out at Rs.10,81,704/-.

As regards the other conventional heads i.e. loss of estate, loss of consortium, loss of love and affection, for attendant, special diet, funeral expenses etc., in the facts and circumstances of the case, we are of the opinion that a total sum of Rs.2 lakhs under the aforesaid conventional heads would be just and proper. It is awarded accordingly.

10. In the result, the claimants are held entitled for a total compensation of Rs.12,81,704/-. As the Tribunal has already awarded

Rs.7,33,400/-, the appellants/claimants are entitled to have additional compensation of Rs.5,48,304/- with interest @ 9% per annum thereon from the date of filing of claim petition till realization.

The appeal is accordingly disposed of with modification in the impugned award to the above extent.

Sd/

(Pritinker Diwaker)

Judge

Sd/

(R.P. Sharma)

Judge