**NAFR**

**HIGH COURT of CHHATTISGARH, BILASPUR**
**MAC No.632 of 2015**

1. Smt. Safesh Singh Wd/o Wd/o Late Ghuran Singh Aged About 48 Years
2. Dilip Singh S/o Late Ghuran Singh Aged About 25 Years
3. Men Singh S/o Late Ghuran Singh Aged About 20 Years
   All are R/o Village Kalyanpur, Police Station Surajpur, Tahsil Ramanujnagar, District Surajpur Chhattisgarh.

**---- Appellants**

**Versus**

1. Mohd. Rafique S/o Mohd. Halim Aged About 34 Years R/o Village Tripureshwarpur, Police Staion And Tahsil Ramanujnagar District Surajpur Chhattisgarh
2. Girish Kumar Vishwas S/o Lalit Kumar Vishwas Aged About 32 Years R/o Village And Police Station Ramanujnagar, Premnagar Road (Graphic Road Premnagar Road), Tahsil Ramanujnagar, District Surajpur Chhattisgarh
3. Iffco Tokiyo General Insurance Co.Ltd. Through Branch Office, Gouri Shanker Mandir Road Raigarh, District Raigarh Chhattisgarh.

**---- Respondents**

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For Appellants : Shri AL Singroul, Advocate.
For respondents No.3 : Shri Amrito Das, Advocate.

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**SB: Hon'ble Shri Justice P. Sam Koshy**

**Order On Board**

**31.08.2017**

1. The present is an appeal under Section 173 of the Motor Vehicles Act (for short, the MV Act) against the award dated 13.03.2015 passed by the Motor Accident Claims Tribunal, Surajpur (in short, the Tribunal) in Claim Case No.57 of 2014. Vide the said impugned award, the Tribunal in a claim application filed under Section 166 of the MV Act by the claimants in a death case of an employee of South Eastern Coalfields Ltd. (in short SECL) has awarded compensation of Rs.22,67,119/- which is under challenge by the claimants seeking for enhancement.

2. The contention of the appellants is that the Tribunal has not properly appreciated the wages and the salary slip produced by the claimants before the Tribunal with which the compensation would have assessed and that the salary of Rs.24,450/- assessed by the Tribunal is on the lower side and the same deserves to be suitably enhanced. He further submits that the amount of compensation granted under the conventional head and other heads are also too meager an amount considering the date of death itself being of particular 2014 i.e. in the recent past.
3. Counsel for the insurance company however opposes the appeal and submits that perusal of the impugned award itself would show that the findings arrived at by the Tribunal is just, fair and reasonable which does not warrant interference. He further submits that the Tribunal has passed the award taking into account the evidence which have come on record. Thus, prayed for rejection of the appeal.
4. Having heard the rival contentions put forth on either side, and on perusal of records, all that which requires to be seen is whether the Tribunal has taken into account the wages of the deceased in its proper perspective or not. Ex. P/11 is the salary slip for the month of January, 2014 i.e. just couple of months before the date of death of the deceased. If we peruse the pay slip Ex. P/11, it would clearly reflect that the net income of the deceased of the month was Rs.33,615/- which is excluding the deduction made towards income tax and also excluding the house rent and other fringe benefits paid to the deceased employee. Thus, this court has no hesitation in

accepting the monthly wage of the deceased to be at Rs.33,615/- instead of Rs.22,450/- as assessed by the Tribunal. The simple reason not to accept the assessment of the Tribunal is also for the reason that deductions made towards group insurance and provident fund are all the income of the deceased which the deceased would have received at the time of his superannuation and it was a voluntary deduction or else the major portion of the said amount would also had been the part of the salary. Thus, this court proceeds to calculate the compensation accepting the monthly wages of the deceased to be Rs.33,615/- instead of Rs.22,450/-.

5. If monthly wages is accepted at Rs.33,615/-, the yearly income would be Rs. 4,03,380/-. If 1/3rd of the same is deducted towards personal expenses, the remaining amount would be Rs.2,68,920/- which would be the yearly income of the deceased for the purpose of calculating compensation. If this amount is multiplied by applying the multiplier of 11, the amount of compensation payable to the claimants would become Rs.29,58,120/- instead of Rs.22,67,119/-as assessed by the Tribunal. Likewise, the compensation paid under conventional head all inclusive of Rs.25,000/-and Rs.2519/- towards transportation is too meager an amount for an accident that took place in April, 2014. Thus, this court is of the opinion that ends of justice would meet if a lump sum compensation of Rs.1,00,000/- is paid to the claimants under the conventional head as also for the accidental conveyance charges, thus, making total compensation payable to the claimants at Rs.30,58,120/-.

6. The appeal is allowed. The claimants shall now be entitled for an additional compensation of Rs.6,91,001/-. The said additional compensation shall also carry interest at the same rate as awarded by the Tribunal in its award under challenge.

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

inder