NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MAC No. 909 of 2015

1. Hiramati Kamro Wd/o Late Nahar Singh, aged about 28 Years.
2. Minor Deman Singh S/o Late Nahar Singh, aged about 12 Years.
3. Minor Ku. Chanda Singh D/o Late Nahar Singh, aged about 10 Years
No. 2 & 3 are Minor Through Mother Hiramati
All are R/o Village Pawanpur, Police Station and Tahsil Ramanujnagar District Surajpur, Chhattisgarh

---- Appellants

Versus

1. Narendra Singh S/o Pransay, aged about 25 Years, R/o Nawapara (College Road) Surajpur, Police Station and Tahsil Surajpur, District Surajpur, Chhattisgarh
2. Nanhu Singh S/o Mayaram, aged about 45 Years, R/o Village Nawapara, Surajpur, Police Station And Tahsil Surajpur, Chhattisgarh
3. The Chola Mandalam General Insurance Com. Ltd., 1st Floor Rajeev Plaza, Bilaspur, Chhattisgarh.

---Respondents

For Appellants	:	Shri Anil Gulati, Advocate
For respondent No.3	:	Shri D.L.Dewangan, Advocate

Hon'ble Shri Justice P. Sam Koshy

Order on Board

18/09/2017

1. Present is an appeal under Section 173 of the Motor Vehicle Act assailing the award dated 09/04/2015 passed by the 1st Additional Motor Accident Claims Tribunal, Surajpur, District Surajpur (C.G) (for short – the Tribunal) in Motor Accident Claim Case No.14/2013.
2. Vide the said impugned award, the Tribunal in Claim Case under Section 166 has awarded compensation of Rs.4,97,000/- along with interest @ 9% per annum. The liability of payment of compensation has been fastened upon the respondent No.3/Insurance Company.
3. The contentions of the counsel for the appellant seeking enhancement is that, the income which has been assessed by the Tribunal at Rs.3,000/- for quantifying the compensation is on the lower side. He further submits that, the accident is of December-2012 and it is anybody's guess that during the said period even an unskilled labour would have earn more than Rs.150/- a day which would make Rs.4,500/- monthly and therefore the Tribunal ought to have taken monthly income of the deceased more than Rs.4,500/- instead of Rs.3,000/-. He further submits that, the Tribunal also has not taken income under future prospects while quantifying the compensation which also is now well settled by series of decisions. Lastly, it was contended that, the compensation under the conventional head is also unreasonably low and same deserves enhancement.
4. The counsel for the Insurance Company however opposing the appeal submits that, the award passed by the Tribunal is based upon the

evidence which have come on record and same is just and reasonable and does not warrant any interference. He further submits that, the claimants themselves in their evidence admitted the fact that, the decease used of working for only nine months time.

5. Having considered the rival contentions put forth on either side and on perusal of record this court is of the opinion that, considering the time of accident i.e. of December-2012, undoubtedly, the wage of even an unskilled labour during the said period was more than Rs.150/- a day and for all practical purposes, the Tribunal ought to have taken atleast Rs.4,500/- as the monthly income of the deceased for quantifying the compensation. It is ordered accordingly.

6. Likewise, also this court has no hesitation in reaching to the conclusion that, the Tribunal has not taken the income under future prospects while quantifying the compensation and the amount of compensation thus deserves to be enhanced on this ground as well which has by now become part of the compensation.

7. Further as regards conventional head also it has been decided by Hon'ble Supreme Court in a series of decisions starting from the case of Sarla Verma till the case of Rajesh Vs. Rajbir that compensation under this head should be suitably awarded.

8. In view of the same, accepting Rs.4,500/- as the monthly income of the deceased and adding 50% of the same i.e. Rs.2,250/- towards future prospects, the amount would becomes Rs.6,750/- and yearly income to be Rs.81,000/-. If 1/3rd is deducted towards personal expenses the amount would be Rs.54,000/- which if multiplied by applying multiplier of 17, the amount would becomes 9,18,000/-. Thus, it is ordered that, the claimant shall be entitled for compensation of Rs.9,18,000/- towards loss of dependency instead of Rs.4,32,000/- as has been awarded by the Tribunal. Likewise, considering the decision of Supreme Court in the case of Rajesh Vs. Rajbir, this court is inclined to grant Rs.1,25,000/- as compensation under the conventional head instead of Rs.65,000/- as has been awarded by the Tribunal. Thus, total compensation which would be payable to the claimants shall be Rs.10,43,000/- instead of Rs.4,97,000/- as awarded by the Tribunal. It is further held that the claimant shall also be entitled for interest on the said amount at the rate of 6% per annum from the date of application till the date of realization.

9. The appeal thus stands allowed and disposed off.

Sd/-
(P. Sam Koshy)
Judge

Sumit