NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Misc. Appeal (C) No. 287 of 2012

1. Pratiksha Das Wd/o late Mukesh Vaishnav, aged about 26 years
2. Rukhmani Wd/o late Chhannu Das, aged about 65 years
3. Raj Vaishnav S/o late Mukesh Vaishnav, aged about 08 years
   Minor through his natural guardian appellant no.1
   All R/o ward No. 16, Tulsipur, Rajnandgaon, District Rajnandgaon (CG)

---- Appellants

Versus

1. Ghanshyam Verma S/o Mukund Verma, R/o Ward No.3, Thana Khamhariya, District Durg (CG)
2. The National Insurance Company Limited through Branch Manager, Kamthi Line, Rajnandgaon (CG)

---- Respondents

For Appellants	:	Shri Amiyakant Tiwari along with Shri P. Acharya, Advocates
For Respondent no.2	:	Shri B. N. Nande, Advocate

Hon'ble Shri Justice P. Sam Koshy

Order On Board

26/02/2018

Present is an appeal by the claimants under Section 173 of the Motor Vehicles Act. The challenge is to the award dated 06.08.2011 passed by the Motor Accident Claims Tribunal, Rajnandgaon (CG) in Claim Case No.74/2011. Vide the impugned award, in a death case under Section 166 of the MV Act, the Tribunal has awarded compensation of Rs.6,05,000/- with interest @ 6% per annum from the date of application.

2. Brief facts of the case are that deceased Mukesh Vaishnav, aged around 28 years was travelling on his motorcycle bearing registration No. CG

07 LM 8030 when he was hit with a Toyota Qualis bearing registration No. CG 07 0115. As a result of the accident, Mukesh Vaishnav sustained grievous injuries to which he later succumbed. The legal representatives of the deceased filed a claim application under Section 166 of the MV Act which stood decided by the impugned award.

3. Counsel for the appellants submits that the income assessed by the Tribunal does not seem to be erroneous as there is evidence brought on record that the gross salary of the deceased was Rs.6,507/- and the Tribunal has taken Rs.6,500/- as his monthly wages for quantification of compensation. However, contention of the counsel for the appellants is that the claimants in the instant case would be entitled for 50% of the income towards future prospects. Likewise, the deductions towards personal expenses would be 1/3 instead of 1/2 that has been made by the Tribunal. Further, the claimants would also be entitled for compensation under the conventional head much more than what has been awarded by the Tribunal. Thus, prayed for suitable enhancement of the compensation.

4. This Court finds the monthly income of the deceased assessed by the Tribunal at Rs.6,500/- to be just and reasonable. Accepting Rs.6,500/- as the monthly income, the yearly income would be Rs.78,000/- to which if 50% is added towards future prospects it comes to Rs.39,000/- making the yearly income at Rs.1,17,000/-. If 1/3rd of the said amount is deducted towards personal expenses, the amount comes to Rs.78,000/- which if multiplied applying the multiplier of 17, the amount would be Rs.13,26,000/-. Accordingly, the claimants would be entitled for Rs.13,26,000/- for loss of dependency. In addition, the claimants would be entitled for a lump sum compensation of Rs.70,000/- under the conventional head making the claimants entitled for a total compensation of Rs.13,96,000/- in stead of

Rs.6,05,000/- as awarded by the Tribunal. The enhanced amount shall also carry interest at the same rate as assessed by the Tribunal.

5. The appeal thus stands allowed.

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

Bhola