

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Misc. Appeal (C) No. 40 of 2018**

1. Netranand Behra S/o Shri Dubraj Bebra, aged about 46 years, R/o Village Khamhariya, P.S. and Tahsil Gharghoda, District Raigarh, Civil and Revenue District Raigarh, Chhattisgarh
2. Mohargi W/o Shri Netranand Behra, aged about 44 years, R/o Village Khamhariya, P.S. and Tahsil Gharghoda, District Raigarh, Civil and Revenue District Raigarh, Chhattisgarh
3. Gulapi W/o Late Om Prakash, aged about 22 years, R/o Village Khamhariya, P.S. and Tahsil Gharghoda, District Raigarh, Civil and Revenue District Raigarh, Chhattisgarh
4. Minor Vikash S/o Late Om Prakash, aged about 3 years, minor through natural guardian mother Gulapi W/o Late Om Prakash, R/o Village Khamhariya, P.S. and Tahsil Gharghoda, District Raigarh, Civil and Revenue District Raigarh, Chhattisgarh
5. Minor Vivek S/o Late Om Prakash, aged about 8 Months, minor through natural guardian mother Gulapi W/o Late Om Prakash, R/o Village Khamhariya, P.S. and Tahsil Gharghoda, District Raigarh, Civil and Revenue District Raigarh, Chhattisgarh(Claimants)

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1. Mata Road Carrier through Manager Mata Road Carrier, R/o behind Jaine Petrol Pump, Tatibandh, Raipur, District Raipur, Chhattisgarh
(Owner of Vehicle)
2. Kameshwar Ram S/o Mukhlal, aged about 30 years, Occupation driver of vehicle, R/o Village Tilore, P.S. & Tahsil Tilore, District Palamu (Jharkhand)(Driver)
3. The Oriental India Insurance Company Limited, through Branch Manager, Itwari Bazar, Raigarh, District Raigarh, Chhattisgarh(Insurance Company)

---- Respondents

For Appellants	:	Shri M. K. Sinha, Advocate
For Respondent no.3	:	Shri Raj Awasthi, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order On Board****12/01/2018**

Heard on I.A. No.01/18 for condonation of delay in filing the appeal.

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 293 days in filing the appeal stands condoned.
3. Present is an appeal by the claimants under Section 173 of the Motor Vehicles Act assailing the award dated 06.12.2016 passed by the Motor Accident Claims Tribunal, Raigarh (CG) in Claim Case No. 487 of 2005. Vide the impugned award, the Tribunal, in a death case under Section 166 of MV Act, has awarded a compensation of Rs.6,78,000/- with interest @ 3% per annum from the date of application.
4. Contention of the counsel for the appellants is that the amount of compensation awarded by the Tribunal is unreasonably low in as much as the income assessed is on the lower side as compared to the date of accident. He submits that the claimants also would be entitled for the income under future prospects so also the multiplier applied would be 18 in stead of 17 as assessed by the Tribunal. Likewise, considering the total number of claimants, the deduction towards personal expenses would be 1/4th in stead of 1/3rd. For all these reasons, counsel for the appellants prays for enhancement of the compensation suitably.
5. Considering the period of accident i.e. April, 2005, the income of Rs.3,000/- assessed by the Tribunal seems to be unreasonable and not justified. During the said period, even an unskilled labour would have been earning more than Rs.150/- a day which makes it Rs.4,500/- a month. This Court, in the given facts and circumstances of the case, assesses the income

of the deceased at Rs.4,500/- a month in stead of Rs.3,000/- and proceeds to quantify the compensation accordingly.

6. Accepting Rs.4,500/- as the monthly income, yearly income would be Rs.54,000/- to which if 40% is added towards future prospects, the amount comes to Rs.75,600. If 1/4th of the said amount is deducted towards personal expenses considering the total number of claimants, the amount would come to Rs.56,700/- which if multiplied applying the multiplier of 18, the amount would come to Rs.10,20,600/-. It is ordered that the claimants would be entitled for Rs.10,20,600/- as loss of dependency. The compensation awarded under conventional head i.e. Rs.2,70,000/- considering the total number of claimants shall remain the same as awarded by the Tribunal. Thus, the claimants shall be entitled for a total compensation of Rs.12,90,600/- in stead of Rs.6,78,000/- as awarded by the Tribunal.

7. The rate of interest as awarded by the Tribunal is unreasonably low even less than the prevailing Bank rate of interest. Accordingly, the rate of interest is enhanced from 3% to 6% per annum. The enhanced rate of interest shall be applicable on the total amount of compensation payable to the claimants.

8. The present appeal thus stands allowed.

Sd/-
(P. Sam Koshy)
JUDGE