

NAFR

HIGH COURT of CHHATTISGARH, BILASPUR**MAC No. 828 of 2012**

1. Smt. Mangala Bai Katre And Anr. W/o Radhe Syam Katre Aged About 49 Years
2. Radhe Syam Katre S/o Late Trilok Chand Katre Aged About 56 Years.

Both R/o Devendra Nagar, Paras Nagar, P.S. Devendra Nagar, Raipur, Distt. Raipur C.G.

---- Appellants**Versus**

1. Vikash Singh S/o Bhagat Singh Ward, Birgaon, Raipur, Tah. And Distt. Raipur C.G.
2. Leena Chandravanshi W/o Rajesh Chandravanshi Ward No. 08, House No. 1223, Bhagat Singh Ward, Birgaon, Raipur, Tah. And Distt. Raipur C.G., District : Raipur, Chhattisgarh
3. The Oriental Insurance Com. Ltd. W/o Thru- Divisional Manager, Divisional Office No. 3, Madina Manjil- Kachahari Chowk, Raipur C.G.

---- Respondents

For Appellants	:	Shri Pawan Kesharwani, Advocate.
For respondent No.3		Shri Raj Awasthi, Advocate.

Hon'ble Shri Justice P. Sam Koshy**Judgment On Board****13.02.2018**

1. The present appeal under Section 173 of the Motor Vehicles Act has been filed by the claimants seeking enhancement of compensation against the award dated 23.03.2012 passed by the 5th Additional Chief Motor Accident Claims Tribunal, Raipur (in short, the Tribunal) in Claim Case No.134/2011. Vide the said impugned award, the Tribunal has awarded a compensation of Rs.2,46,000/-along with interest @ 9 percent per annum from the date of application.
2. While passing the award, the Tribunal has exonerated the insurance

company of its liability and has fastened the same upon the respondents No.1&2, driver and the owner of the offending vehicle.

3. Counsel for the appellants-claimant submits that the amount of compensation awarded by the Tribunal is unreasonably low inasmuch as the income assessed, so also the multiplier applied all have not been done in accordance with the guidelines of the Supreme Court laid down in case of Sarla Verma and Ors. Vs. Delhi Transport Corporation and Anr. 2009 (6)SCC 121. The claimants would also be entitled for future prospects. Thus, prayed for amount to be suitably enhanced.
4. The counsel for the insurance company submits that since the insurance company has already been exonerated of its liability, he has no objection so far as the appeal of the claimants seeking enhancement of compensation is concerned.
5. Having heard the counsel on either side and on perusal of records, the undisputed facts which erupts is the date of accident being 02.09.2010; the deceased being Jitendra Katre aged about 30 years and the vehicle involved is a Bolero Jeep bearing registration No.CG-04-HA 1590. Though the claimants have pleaded that the deceased was earning Rs.11,500/-, but there was no substantial evidence to establish the same. Now, so far as fixing the notional income is concerned, if we take into consideration the period of accident which is September, 2010, indisputably during the said period even an unskilled labour would have been earning more than Rs.200/- a day which would bring the monthly income at Rs.6000/-. Therefore, this

court has no hesitation in assessing the income of the deceased at Rs.6000/- per month which brings annual income at Rs.72,000/-. In addition the claimants would also be entitled for 40 percent of the said amount towards future prospects.

6. Accepting Rs.6000/- as monthly income, if 40 percent of it is added towards future prospects, the monthly income would reach to Rs. 8400/- and Rs.1,00,800/-annually of which if 50 percent is deducted towards personal expenses as the deceased was a bachelor, the amount left would be Rs.50,400/-, which if multiplied by applying the multiplier of 17, the amount would become Rs.8,56,800/-. It is ordered accordingly that the claimants shall be entitled for loss of dependency at Rs.8,56,800/-. In addition, the claimants shall also be entitled for an additional lump sum compensation of Rs.40,000/- under the conventional heads to make the total compensation payable at Rs.8,96,800/- instead of Rs.2,46,000/- as awarded by the Tribunal.
7. The above enhanced amount of compensation shall also carry interest at the same rate as awarded by the Tribunal.
8. Accordingly, the appeal of the appellants-claimant stands allowed and disposed of. The liability of payment of compensation shall remain that upon the respondents No.1&2-the driver and the owner of the offending vehicle.

Sd/-

(P.Sam Koshy)
Judge