

HIGH COURT OF CHHATTISGARH AT BILASPURMAC No. 1089 of 2012

1. Chameli Devi W/o Late Shri Leelaram Sahu, aged about 26 years.
2. Lalita D/o Late Shri Leelaram Sahu, aged about 07 years.
3. Babita D/o Late Shri Leelaram Sahu, aged about 05 years.
4. Sonia D/o Late Shri Leelaram Sahu, aged about 03 years.
5. Ramadhar Sahu S/o Rathu Ram Sahu, aged about 47 years.
6. Kaleshari Bai W/o Ramadhar Sahu, aged about 46 years.

Minor Applicants No.2 to 4 through their natural guardian mother applicant No.1 Smt.Chameli Devi.

All are R/o Old Sarkanda, Police Station Sarkanda, Tehsil and District Bilaspur (C.G.).

---Appellants

Versus

1. Prakash Pradhan S/o Anand Ram Pradhan, aged about 30 years, R/o village Kumhari, Police Station Bilaigarh, Tehsil and District Bilaspur (C.G.) (Driver).
2. Lekhram Sahu S/o Thandaram Sahu, R/o Tatibandh, Raipur, Tehsil and District Raipur (C.G.) (Owner).
3. Divisional Manager, The New India Assurance Co.Ltd., Near Bus Stand, Bilaspur (C.G.) (Insurer).

---Respondents

For appellants	:	Shri N.P.Chandrawanshi and Ms.Bhagwati Kashyap, Advocate.
For resp.No.3/ Insurance Company	:	Shri Sourabh Sharma and Shri A.K.Gupta, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

28/02/2018

1. Present is an appeal filed by the claimants under Section 173 of the Motor Vehicles Act assailing the award dated 24/03/2012 passed by the

learned Fourth Additional Motor Accident Claims Tribunal, Bilaspur (C.G.) in Motor Accident Claim Case No.145/2011.

2. Vide the impugned award, the Tribunal in a death case under Section 166 of the Motor Vehicles Act has awarded a compensation of Rs.5,18,000/- with interest @ 6% per annum from the date of application.

3. The contention of the counsel for the appellants/claimants is that, the compensation awarded by the Tribunal is on the lower side in as much as the income assessed was extremely low and that the Tribunal has not properly appreciated the proof of salary produced before the Tribunal. She further submits that, the deceased in the instant case was a skilled Mason and he was drawing an income of more than Rs.300/- per day which was also proved from the certificate issued by the employer. She further submits that, the claimants would also be entitled for compensation towards the future prospects so also the compensation under the conventional head also deserves suitable enhancement.

4. The counsel for the Insurance Company however opposing the appeal submits that, the award seems to be fair and reasonable and does not warrant any interference as it is based on the evidence which have come on record and thus prayed for rejection of the appeal.

5. Having heard the contentions put forth on either side and on perusal of record what clearly reflects is the admitted factual matrix of the case of the accident being took place on 24/05/2009. As a result of the said accident, the deceased, aged around 27 years had died. The vehicle involved in the

accident and the same being duly insured with the respondent No.3 is also not in dispute.

6. The only consideration left is to ascertain whether the amount of compensation awarded was fair and reasonable or not? Taking into consideration the evidence which have come on record, though the claimants have claimed that the deceased was earning Rs.300/- per day i.e. Rs.9,000/- per month, but considering the period of accident i.e. May-2009, this Court assesses the income of the deceased at Rs.6,000/- per month @ Rs.200/- per day which was the normal rate of wages even for an unskilled labour at the relevant point of time.

7. Therefore, this Court assesses the monthly income of the deceased at Rs.6,000/- instead of Rs.3,000/- as assessed by the Tribunal. The claimants would also be entitled for 40% of the income towards future prospects which come to Rs.2,400/-. If Rs.2,400/- is added to the monthly income, the figure would become Rs.8,400/- per month i.e. Rs.1,008,00/- yearly of which if 1/4th is deducted towards personal expenses considering the total number of claimants to be 6, the amount left would be Rs.75,600/- which if multiplied by applying multiplier of 17, the amount would come to Rs.12,85,200/-. Thus, it is ordered accordingly that the claimants shall be entitled for a compensation of Rs.12,85,200/- towards loss of dependency. In addition, the claimants would also be entitled for an additional amount of Rs.70,000/- towards the conventional head which would make the total compensation payable to the claimants at Rs.13,55,200/- instead of Rs.5,18,000/- as

awarded by the Tribunal. The said enhanced amount shall also carry interest at the same rate as has been awarded by the Tribunal.

8. The appeal thus stands allowed and disposed off.

Sd/-

(P. Sam Koshy)
JUDGE

Sumit