

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**MAC No. 724 of 2012**

Loknath Sahu, S/o. Late Baliram Sahu, Aged about 27 years, R/o. Village Bancharouda, Police Station Arang, District Raipur Chhattisgarh

---- Appellant**Versus**

1. Subal Bariha, S/o. Dharmendra Bariha, Aged about 30 years, R/o. Dhamandonga, Police Station Darekela, District Balangir, Odisha (Driver)
 2. Ramesh Agarwal, S/o. Madan Agarwal, Aged about 46 years, R/o. Samta Coloney, Raipur District Raipur Chhattisgarh (Owner)
 3. The Regional Manager, HDFC General Insurance Company Limited, through: Branch Manager, Branch Office, Lalganga Complex, Raipur, District Raipur Chhattisgarh
 4. Parasram Sahu, S/o. Late Baliram Sahu, Aged about 42 years,
 5. Nakulram Sahu, S/o. Late Baliram Sahu, Aged about 40 years,
 6. Sahdevram Sahu, S/o. Late Baliram Sahu, Aged about 38 years,
 7. Ramsevak Sahu, S/o. Late Baliram Sahu, Aged about 36 years,
 8. Rambishal Sahu, S/o. Late Baliram Sahu, Aged about 34 years,
 9. Shiv Kumar Sahu, S/o. Late Baliram Sahu, Aged about 32 years,
- All R/o. Village Bancharouda, Police Station Arang, District Raipur Chhattisgarh

---- Respondents

For Appellant	:	Mr. R.K. Pali, Advocate under instructions of Mr. Shivendu Pandya, Advocate
For Insurance Company	:	Mr. Amrito Das, Advocate along with Mr. P. Acharya, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order on Board****22/02/2018**

1. None for the other respondents.
2. The present is an appeal by the Claimant under Section 173 of the Motor Vehicles Act seeking enhancement. Challenge is to the award dated 06.03.2012, passed by the Motor Accident Claims Tribunal, Mahasamund, Chhattisgarh, in Claim Case No. 207/2009.

3. Vide the impugned award, the Tribunal in a death case has awarded a compensation of Rs.1,02,000/- with interest @ 6% per annum from the date of application.
4. The counsel for the appellant submits that the compensation awarded by the Tribunal is unreasonably low, in as much as the income assessed and the amount of compensation under the conventional head are all unjustified and the Claimant was entitled for much more compensation than what has been awarded. He further submits that the Claimant would also have been entitled for compensation under future prospects.
5. The counsel for the Insurance Company however opposing the appeal submits that there is no scope of any enhancement considering the period of death, the age of the deceased and nature of employment and thus prayed for rejection of the appeal as the compensation awarded seems to be fair and reasonable.
6. Having heard the contention put forth on either side what is undisputed from the fact of the case is the date of accident, the vehicle involved in the accident, the vehicle being duly insured with the respondent No.3-Insurance Company. The death of deceased Kulmat Bai also from the accident is not in dispute. The only issue to be ascertained in the present appeal is "whether the compensation awarded is just and reasonable or not". The Tribunal in the instant case has assessed the notional income of the deceased at Rs.15,000/-. The period of accident is June, 2009. During the relevant time, undisputedly even an unskilled labour was earning more than Rs.150-200/- a day. Even if we take the minimum of wage at Rs.150/- a day, the deceased would have earned Rs.4500/- a

month. This Court has no hesitation in assessing the income of the deceased at Rs.4500/- per month and Rs.54,000/- yearly instead of Rs.15,000/- as assessed by the Tribunal. This Court further proceeds to quantify the compensation assessing the yearly income at Rs.54,000/-. The Claimant would also have been entitled for 10% of the income towards future prospects while quantifying the compensation. 10% of the Rs.54,000/- is Rs.5400/- to make the yearly income at Rs.59,400/-, of which if 1/3 is deducted towards personal expenses, the amount left would be Rs.39,600/-, which if multiplied applying the multiplier of 11, the amount would come to Rs.4,35,600/-. In addition, the Claimant would also be entitled for an amount of Rs.64,400/- towards the compensation under conventional head to make the total compensation payable at Rs.5,00,000/- instead of Rs.1,02,000/-.

7. The enhanced amount shall also carry interest at the same rate as awarded by the Tribunal.
8. The appeal thus stands allowed and disposed off.

Sd/-
(P. Sam Koshy)
Judge