

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Misc. Appeal (C) No. 98 of 2012**

1. Firoja Khan Wd/o Late Masud Khan, R/o Santoshi Nagar, Gitti Khadan, in front of Masjid, P.S. Tikrapara, Raipur C.G.
2. Ku. Sayma Najad D/o Late Masud Khan, Minor legal guardian through mother Firoja Khan, R/o Santoshi Nagar, Gitti Khadan, in front of Masjid, P.S. Tikrapara, Raipur C.G.
3. Ku. Sobiya Farha D/o Late Masud Khan, Minor legal guardian through mother Firoja Khan, R/o Santoshi Nagar, Gitti Khadan, in front of Masjid, P.S. Tikrapara, Raipur C.G.
4. Ku. Samina Rafat D/o Late Masud Khan, Minor legal guardian through mother Firoja Khan, R/o Santoshi Nagar, Gitti Khadan, in front of Masjid, P.S. Tikrapara, Raipur C.G.

---- Appellants**Versus**

1. Jagdish Bhagat S/o Budhe Ram Bhagat, R/o Village Bartoli, Jashpur, District Jashpur (C.G.) Present address through : Raghvendra Pratap Singh, S/o Late Rana Pratap Singh 31 A, Cross Street, 5, Rana Bhawan, Smriti Nagar, Bhilai, Police Station Supela, District Durg (C.G.) (Driver of alleged Car bearing Registration No.C.G.07-3391)
2. Vikas Kumar S/o K.S.P. Ambe R/o Power House Bus Stand Bhilai Padam Nagar Bhilai- 3, Distt. Durg C.G. Present address : through L.P. Yadav, Housing Board Colony, Jashpur Nagar, Jashpur (C.G.) (Owner of alleged Car bearing registration No.C.G.07-3391)
3. The Oriental Insurance Com. Ltd. through Divisional Manger, Division No. 1, The Oriental Insurance Co. Ltd., Jail Road Raipur, Distt. Raipur C.G. (Insurer of alleged Car bearing registration No. C.G. 07-3391)
4. Paramvir Singh Greval, S/o Late B.S. Greval, R/o Quality Electric Stores, M.G. Road, Raipur, Distt. Raipur (Owner of alleged Vehicle bearing registration No. C.G.04ZA-6100)
5. The New India Insurance Co. Ltd. Through Divisional Manger, the New India Insurance Co. Ltd. Jail Road Raipur, Distt. Raipur C.G. (Insurer of alleged Vehicle bearing registration No. C.G.04ZA-6100)

---- Respondents

For Appellants	:	Shri A. D. Duldeep, Advocate
For Respondent No.3	:	Shri N. K. Malviya, Advocate

Hon'ble Shri Justice P. Sam Koshy

Order On Board

05/03/2018

Present is an appeal by the claimants under Section 173 of Motor Vehicles Act seeking for enhancement of compensation. The challenge is to the award dated 09.08.2011 passed by the 2nd Additional Motor Accident Claims Tribunal, Raipur (CG) in Claim Case No.134/2011. Vide the impugned award, in a claim case under Section 166 of the MV Act, the Tribunal has awarded compensation of Rs.3,35,000/- with interest @ 6% per annum from the date of application.

2. Contention of the counsel for the appellants is that the Tribunal while passing the impugned award has not granted suitable compensation in as much as the income assessed is on the lower side so also the compensation under the conventional head is on the lower side. Likewise, the claimants would be entitled for compensation under the future prospects while quantifying the compensation. Thus, prayed for suitable modification of the impugned award.

3. Counsel for the insurance company, however, opposing the appeal submits that the finding of the Tribunal seems to be fair and reasonable considering the age of the deceased, the nature of employment and the period of accident. Thus, prayed for rejection of the appeal.

4. Having heard the contentions put forth on either side and on perusal of the record, what clearly reflects is that the accident occurred in April, 2009. In the year 2009, even an unskilled labour was earning more than rupees 150 to

200 a day which makes the monthly income at Rs.4,500 to 6,000/-. 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/- as assessed by the Tribunal and proceeds to quantify the compensation accordingly.

5. Accepting Rs.4,500/- as the monthly income, yearly income would be Rs.54,000/- to which if 25% is added towards future prospects, the amount comes to Rs.67,500. If 1/4th of the said amount is deducted towards personal expenses, the amount comes to Rs.50,625/- which if multiplied applying the multiplier of 14, the amount comes to Rs.7,08,750/- which would be the amount of compensation towards loss of dependency. In addition, the claimants would also be entitled for a lump sum compensation of Rs.70,000/- under the conventional head. Thus, the claimants shall be entitled for a total compensation of Rs.7,78,750/- in stead of Rs.3,35,000/- as awarded by the Tribunal. The enhanced amount shall also carry interest at the same rate as fixed by the Tribunal.

6. The appeal thus stands allowed.

Sd/-
(P. Sam Koshy)
JUDGE