NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MAC No. 224 of 2012

1. Smt. Chapola Bagchi, W/o. Niranjan Bagchi, Aged about 20 years,
2. Amrit Kumar S/o Late Niranjan Bagchi, Aged about 1 years, Minor through his natural guardian/mother Smt. Chapola Bagchi, Wd/o. Late Niranjan Bagchi, Aged about 20 years,
3. Smt. Malti Bagchi Wd/o Late Nirad Bagchi, Aged about 53 years,

All above R/o Village Farasgaon, P.S. Farasgaon, At Present R/o Dharampura No. 1, Police Station City Kotwali, Jagdalpur, District Baster Chhattisgarh

---- Appellants

Versus

1. Pendrav Prasad Bisai S/o Chandrashekhar Bisai, Aged about 27 years, R/o. Garai Munda, Umarkot, Police Station Umarkot, District Naurangpur (Orissa)
2. Smt. Geeta Mandal Wd/o Late Prakash Mandal, Aged about 35 years, President, Jai Jagannath A.H.G. Jamronda, R/o Village Jamronda, Post Jamronda, P.S. Umarkot, District Naurangpur (Orissa)
3. Oriental Insurance Company Limited, Branch C.B.O.-1, Mission Road Up Bukli Girls School, Katak (Orissa)

---- Respondents

For Appellants	:	Mr. Anurag Shrivastava, Advocate under instructions of Mr. Manoj Paranjpe, Advocate
For Insurance Company	:	Mr. N.K. Malviya, Advocate

Hon'ble Shri Justice P. Sam Koshy

Order on Board

13/02/2018

1. The present is an appeal by the Claimants under Section 173 of the Motor Vehicles Act seeking enhancement of compensation. Challenge is to the award dated 03.09.2011, passed by the 1st Additional Motor Accident Claims Tribunal, Bastar, Jagdalpur, Chhattisgarh, in Claim Case No. 71/2011.

2. Vide the impugned award, the Tribunal has awarded a compensation of Rs.4,92,000/- with interest @ 6% per annum from the date of application.

3. The counsel for the appellants submits that the amount of compensation awarded is on the lower side in as much as both the income assessed and the income towards future prospects have not been properly assessed by the Tribunal while quantifying the compensation. He submits that the amount of compensation under the conventional head is also on the lower side and prayed for suitable enhancement.
4. The counsel for the Insurance Company submits that the Tribunal has itself exonerated the Insurance Company from its liability and as such the Insurance Company does not have any objection so far as the appeal is concerned.
5. Given the facts and circumstances of the case once when we look into the date of accident, which is May, 2007 and the deceased was Driver by profession, the Tribunal has assessed his income at Rs.400/-. This Court, considering the period of accident and the nature of job which the deceased was undertaking, assesses the income at Rs.150/- per day and quantifies the monthly income at Rs.4500/- instead of Rs.4000/- as assessed by the Tribunal. In addition, the Claimants would also be entitled for compensation under the future prospects while quantification of the compensation.
6. Accepting Rs.4500/- as the monthly income, the yearly income would come to Rs.54,000/-, of which if 40% is added towards future prospects the amount which comes to Rs.21,600/- the total amount would come to Rs.75,600/-, of which if 1/3rd is deducted, the amount left with the Rs.50,400/-, which if multiplied applying the multiplier of 15, the amount would come to Rs.7,56,000/- 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, making the total compensation payable at Rs.8,26,000/- instead of Rs.4,92,000/- as awarded by the Tribunal.

7. The 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

Ved