

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**MAC No. 165 of 2018**

1. Balram Sahu S/o Late Indalram Sahu Aged About 38 Years
2. Smt. Pramila Sahu W/o Balram Sahu Aged About 36 Years

Both are R/o Village Gandadih, Tahsil And Thana Magarload, District Dhamtari (Chhattisgarh)

---- Appellants**Versus**

1. Montu Bhatt S/o Ramkhilawan Bhatt, Aged About 26 Years R/o Village Siltara, Shivaji Chowk, P.S. Dharsiva, Distt. Raipur (Chhattisgarh) (Driver)
2. Baldev Singh S/o Shree Ram Singh R/o L.I.G. 100 Janta Colony, Gudhiyari, Raipur, Tahsil Raipur, District Raipur (Chhattisgarh) (Owner)
3. The Oriental Insurance Company Ltd. Zone Office No.1, Madina Building, Jail Road, Raipur, Distt. Raipur (Chhattisgarh)

----Respondent

For Appellants : Mr. Sanjay Agrawal, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order on Board****30/01/2018**

1. Heard on I.A. No.1, which is an application for condonation of delay.
For the reasons assigned in the application and finding them to be satisfactory, I.A. No.1 is allowed and delay of 153 days in filing the appeal stands condoned.
2. Present is an appeal by the Claimants seeking for enhancement.
The challenge is to the award dated 17.05.2017, passed by the 1st Additional Motor Accident Claims Tribunal, Raipur, Chhattisgarh, in Claim Case No. 363/2016, whereby the Tribunal in a death case has awarded a compensation of Rs.74,150/- with interest @ 6% per annum from the date of application.
3. Facts of the case relevant for deciding the appeal is that the deceased in the instant case Jawahar Lal Sahu met with an

accidental death from the use of the Mahindra Bolero Jeep bearing registration No. CG/04/FJ/2595. The Claimants in the instant case is the brother of the deceased and the sister-in-law of the deceased.

4. The Tribunal after considering the facts and circumstances of the case awarded a compensation of Rs.50,000/- to the Claimants and in addition also awarded Rs.20,000/- towards the funeral expenses and also awarded the amount spent for the treatment of the deceased before his death of Rs.4150/-.
5. Counsel for the appellants submits that the deceased was staying along with the present appellants and therefore are in fact the legal representatives of the deceased and therefore they are entitled for much more compensation than that has been awarded by the Tribunal. He further submits that the income of the deceased ought to have been taken into consideration and proper multiplier should have been applied while quantifying the compensation and prayed for the award to be suitably enhanced.
6. Having heard the contentions put forth on either side and on perusal of record what clearly reflects is the categorical finding of the Tribunal that the Claimants in the instant case were not in any manner dependent upon the income of the deceased. The deceased in the instant case was a young brother of the present appellants, who have their own source of income and the present appellants were not dependent upon him.
7. In the given facts and circumstances of the case, the Claimants would be entitled for only compensation to the extent which cannot be less than what would be payable under the provisions of Section 140 of the Motor Vehicles Act. The Tribunal in the instant case has rightly awarded the said amount towards compensation.

8. This Court does not find the said award to be in any manner erroneous or perverse. Further, this Court also finds that the said award stands fully fortified by the decision of the Hon'ble Supreme Court in the case of "***Manjuri Bera vs. Oriental Insurance Co. Ltd.***" reported in ***AIR 2007 S.C. 1474***.
9. In the light of the aforesaid judgment of the Hon'ble Supreme Court, this Court does not find any strong case made out by the appellants for interfering with the impugned award and the appeal thus, deserves to be and is accordingly dismissed.

Sd/-
(P. Sam Koshy)
Judge

Ved