

NAFR

HIGH COURT of CHHATTISGARH, BILASPUR**MAC No. 660 of 2011**

1. Smt. Uma Devi W/o late Shankardas Manikpuri, aged about 35 years.
2. Yogendra Das S/o Late Shankardas Manikpuri, aged about 21 years.
3. Narendra Das S/o Late Shankardas Manikpuri, aged about 20 years.
4. Virendra Das S/o Late Shankardas Manikpuri, aged about 18 years.
5. Rameshwar Das S/o Mohandas Manikpuri, aged about 65 years.
All R/o Bankimogra, Korba, Present Address Tifara, Thana- Civil Line, District Bilaspur.

---- Appellants**Versus**

1. Ashok Yadav S/o Shrinath Yadav, aged about 22 years, R/o Semara, Thana, Tarkulwa, Distt. Devariya, Present Address Jhhabar, Dipika, Thana Dipika, Distt. Korba (CG).
2. Dindayal Agrawal S/o Madhav Prasad Agrawal, R/o Ward No. 8, Paali Road, Dipika, Thana Dipika, Dist. Korba
3. Branch Manager Bajaj Alliance General Insurance Company Ltd. Regional Office Shiv Mohan Bhavan, Vidhandabha Road, Pandri, Raipur.

---- Respondents

For Appellants	:	Shri Pallav Mishra, under instructions of Shri Samir Singh, Advocate.
For Respondent No.3	:	Shri Ghanshyam Patel, Advocate.

SB: Hon'ble Shri Justice P. Sam Koshy**Order On Board****12.01.2018**

1. The present appeal under Section 173 of the Motor Vehicles Act has been filed by the claimants seeking enhancement against the award dated 14.01.2011 passed by the 9th Additional Motor Accident Claims Tribunal, Bilaspur (in short, the Tribunal) in Claim Case No.56 of 2010. Vide the said impugned award, the Tribunal in a death case has awarded a compensation of Rs.10,84,680/- with interest @ 6 percent per annum from the date of application.

2. Learned counsel appearing for the appellants submits that it is a case where the Tribunal has wrongly assessed the income and the same is not as per pay slip of the deceased which was brought on record. He further submits that the deduction made by the Tribunal is 1/3rd whereas it ought to have been 1/4th considering the total number of claimants. Likewise, the claimants would also be entitled for 30 percent of his income towards future prospects. Similarly, the compensation under the conventional heads also is said to have been unreasonably low. Therefore, the award deserves to be enhanced suitably.
3. Learned counsel for the insurance company however opposes the appeal on the ground that the award is fair and reasonable and is based on the material evidence which have come on record and hence there is no scope of any enhancement.
4. Having heard the counsel appearing for the parties and on perusal of records, it reflects that the claimants in the instant case has examined the witness from the office of the employer under whom the deceased was working. The pay slip of the deceased was also marked and exhibited as Ex. A/10 which shows that total monthly salary of the deceased was Rs.14,410/- whereas the Tribunal has taken the income of deceased at Rs.10,170/-. The Tribunal has not taken into account the deductions towards Provident Fund, LIC and Pension which otherwise the deceased was entitled after his superannuation and which also for all practical purposes would be part of the wages. Thus, this court assesses the monthly income of

the deceased at Rs.14,410/- and yearly income at Rs.1,72,920/-.

5. Accordingly, accepting Rs.1,72,920/- as yearly income to which if 30 percent is added towards future prospects, the figure would reach to Rs.2,24,796/-, of which if 1/4th is deducted towards personal expenses considering the total number of claimants, the income would come to Rs.1,68,597/-, which if multiplied applying the multiplier of 14, the compensation would reach to Rs.23,60,358/-. Thus, it is ordered that the claimants shall be entitled for Rs.23,60,358/- for loss of dependency. The claimants shall also be entitled for a lump sum compensation of Rs.70,000/- under conventional heads to make the total compensation payable to the claimants at Rs.24,30,358/- Thus, the total compensation payable to the claimants would become Rs.24,30,358/-. It is ordered accordingly that the claimants shall be entitled for a total compensation of Rs.24,30,358/- instead of Rs.10,84,680/-.
6. The enhanced amount of compensation shall also carry interest at the same rate as has been awarded by the Tribunal.
7. Consequently, the appeal filed by the claimants stands allowed and disposed of.

Sd/-
(P.Sam Koshy)
Judge