

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Misc. Appeal (C) No. 913 of 2012**

Smt. Dashoda Bai Sen W/o late Digeshwar Sen, aged about 20 years,
R/o village and post Maldi, Police Station and Tahsil Bhatapara, District
Raipur (CG)

---- Appellant**Versus**

1. Daulatram Verma S/o Netram Verma, aged about 22 years, R/o village and post Mudhipar, Tahsil and Police Station Baloda Bazaar, District Raipur (CG) (Driver of offending vehicle Tractor No. CG 04 DB 1209 and Trolley No. CG 04 DB 1210)
2. Daulal Verma S/o Netram Verma, aged about 25 years, R/o village and post Mudhipar, Tahsil and Police Station Baloda Bazaar, District Raipur (CG) (Registered owner of offending vehicle Tractor No. CG 04 DB 1209 and Trolley No. CG 04 DB 1210)
3. The New India Insurance Company Limited, through Branch Manager, the New Indian Insurance Company Limited, Civil Lines, Baloda Bazaar, Tahsil Baloda Bazaar, District Raipur (CG) (Insurer of offending vehicle Tractor No. CG 04 DB 1209 and Trolley No. CG 04 DB 1210)
4. Ramkripal Sen S/o Ganesh Sen, aged about 50 years, R/o village and post Maldi, Police Station and Tahsil Bhatapara, District Raipur (CG)
5. Smt. Sumitra Sen W/o Ramkripal Sen, aged about 50 years, R/o village and post Maldi, Police Station and Tahsil Bhatapara, District Raipur (CG)

---- Respondents

For Appellant : Shri R. K. Pali, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order On Board****26/02/2018**

Since none appeared on behalf of the appellant-claimant, this Court considering the fact that the appeal is of the year 2012 thought it proper in getting assistance of Shri R. K. Pali, advocate for disposal of the appeal.

2. Present is an appeal by the claimant under Section 173 of the Motor Vehicles Act. The challenge is to the award dated 23.06.2012 passed by the Additional Motor Accident Claims Tribunal, Bhatapara, District Raipur (CG) in Claim Case No.07/2010. Vide the impugned award, in a death case under Section 163(A) of the MV Act, the Tribunal has awarded compensation of Rs.3,70,000/- with interest @ 6% per annum from the date of application.

3. Contention of Shri Pali, counsel for the appellant is that the compensation awarded is unreasonably low and the same deserves to be suitable enhancement. He submits that the income assessed and the compensation under conventional heads are all unreasonably low. He further submits that the claimants would also be entitled for compensation under future prospects.

4. There is no representation on behalf of the respondents though served. Considering the fact that the appeal is of the year 2012, this Court proceeds to decide the matter finally with the materials available on record.

5. Perusal of the record would show that the vehicle involved in the accident was duly insured with respondent no.3 Insurance Company. The policy which was issued was a comprehensive package policy. The Insurance Company has been fastened with the liability of payment of compensation while deciding issue no.2 and the Insurance Company does not appear to have questioned the liability part in the present appeal.

6. Under the circumstances, this Court proceeds to decide the issue whether the compensation awarded by the Tribunal is just and reasonable or not.

7. Having heard the contention put forth by Shri Pali, what is admitted is the date of accident to be 14.11.2009. This Court does not have any hesitation in reaching to the conclusion that even an unskilled labour during the said period would have been earning more than rupees 150 – 200 a day

which brings the monthly income at Rs.4,500 to 6,000. This Court assesses the monthly income of the deceased taking the lowest i.e. 4,500/- and the yearly income at Rs.54,000/-. The claimant would also be entitled for 40% of the income towards future prospects which comes to Rs.21,600/- making the yearly income at Rs.75,600/-. If 1/3rd of the said amount is deducted towards personal expenses, the amount comes to Rs.50,400/- which if multiplied applying the multiplier of 18, the amount would be Rs.9,07,200/-. In addition, the claimant would also be entitled for a lump sum compensation of Rs.70,000/- under the conventional head making the claimant entitled for a total compensation of Rs.9,77,200/- in stead of Rs.3,70,000/- as awarded by the Tribunal. The enhanced amount shall also carry interest at the same rate as assessed by the Tribunal.

8. Thus, the present appeal stands allowed.

9. This Court expresses a word of appreciation to Shri R. K. Pali for effectively assisting the Court for disposal of the appeal.

10. The Registry is directed to send a copy of this order to the Secretary, District Legal Services Authority, Baloda Bazar who in turn shall make all efforts for serving the copy of this order to the appellant at the address shown in the cause title.

Sd/-
(P. Sam Koshy)
JUDGE