NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MAC No. 1048 of 2014

1. Dhanau Chandraker S/o Manharan Lal Chandrakar Aged About 48 Years,
2. Smt. Ishwari W/o Dhanau Chandraker Aged About 46 Years
   Both R/o Koundkera, Thana and Tah. Mahasamund, Distt. Mahasamund C.G.

---- Appellants

Versus

1. Golu @ Rajesh Bade S/o Prabhakar Bade Aged About 38 Years R/o Mulabara, Thana- City Kotwali Chhindwada, Distt. Chhindwara M.P., Madhya Pradesh.
2. Ashok Thakre S/o Late Rajaram Thakre Aged About 48 Years R/o Kharra, Thana City Kotwali Chhindwada, Distt. Chhindwada M.P., District : Chhindwara, Madhya Pradesh.
3. Branch Manager, IFFCO Tokiyo General Insurance Co. Ltd., 3rd Floor, Shop No. 347, Lalganga Shopping Mall, G.E. Road, Raipur (CG).

---- Respondents

For Appellants	:	Shri Sumit Shrivastava, Advocate.
For respondent No.3	:	Shri P. Acharya, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Judgment On Board

07.03.2018.

1. The present appeal under Section 173 of the Motor Vehicles Act has been filed by the claimants seeking enhancement of compensation against the award dated 26.07.2014 passed by the Motor Accident Claims Tribunal, Raipur (in short, the Tribunal) in Claim Case No.74/2013. Vide the said impugned award, the Tribunal in a death case of a bachelor, aged about 27 years, working as Assistant Sub Inspector with the Police Department, has awarded a compensation of Rs.12,70,600/- with interest @ 6 percent per annum from the date of application.

2. The contention of the appellants is that the finding of Tribunal is erroneous to the extent that the Tribunal has wrongly deducted 30 percent of yearly income towards income tax. He submits that the annual income of the deceased was not which was taxable in any manner. Therefore, deduction of 30 percent towards income tax does not seem to be proper and justified. Further, the multiplier also deserves to be suitably modified for the reason that the Tribunal has wrongly applied the multiplier of 12 whereas, considering the age of the deceased the multiplier would be 17 as per parameters laid down by the Supreme Court in case of Sarla Verma & Ors. Vs. Delhi Transport Corporation & Anr. 2009 (6)SCC 121.
3. The counsel for the insurance company opposing the appeal submits that the assessment made by the Tribunal cannot be said to be erroneous in any manner as the same is based on evidence which has been brought on record by the contesting parties. Thus, prayed for rejection of the appeal.
4. Having heard the contentions put forth on either side and on perusal of records what is undisputed is the date of accident to be 27.01.2013. What is also not in dispute is that the deceased was working with the Police Department as Assistant Sub Inspector. He was aged around 27 years on the date of death. His monthly income on the date of death was Rs.13,831/-. If we take into consideration the income assessed by the Tribunal i.e. Rs.13,831/-, the yearly income comes to Rs.1,65,972/-. This amount is not a taxable amount as per the provisions of the Income Tax Act. Likewise, even if 50

percent of the said amount is added on the said amount towards future prospects for the purpose of quantification of compensation, the yearly income of deceased would be to Rs.2,48,958/-. This amount also, on the date of accident was not an amount which would be taxable. This court thus finds it difficult to accept the deduction of 30 percent of income towards income tax when the income was not taxable. Income tax should be deducted when the amount of income is falling within the taxable range of income and not otherwise. No specific reasons have been given by the Tribunal as to on what basis 30 percent deductions have been ordered to be made by the Tribunal. The said finding is not sustainable. The same deserves to be and is set aside.

5. So far as multiplier is concerned, it is settled law that the multiplier would be based upon the age of the deceased and not of the age of the claimants. The law in this regard is by now well settled right from the decision in case of Sarla Verma (Supra) and all subsequent decisions. For a person who is 27 years old, the multiplier to be applied would be 17.

6. Accepting yearly income of the deceased at Rs.2,48,958/- if 50 of it is deducted towards personal expenses as the deceased was a bachelor, the amount comes to Rs.1,24,479/- which if multiplied by applying the multiplier of 17, the amount comes to Rs.21,16,143/-. It is ordered accordingly that the claimants are entitled for compensation towards loss of dependency at Rs.21,16,143/-. The amount of compensation awarded under conventional heads also is

ordered to remain intact.

7. It is ordered accordingly that the claimants shall now be entitled for a total compensation of Rs. 23,41,143/-instead of Rs.12,70,600/- as awarded by the Tribunal.

8. The above enhanced amount shall also carry the same interest as has been awarded by the Tribunal.

9. The appeal thus stands allowed and disposed of.

Sd/-
(P.Sam Koshy)
Judge

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