NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MAC No. 307 of 2012

1. Balamsai S/o. Chandarsai, Aged about 55 years,
2. Smt. Rupobai W/o Balamsai Aged about 52 years,

   Both are R/o Village Samharsingha, P.O. Hati, P.S. Chhal, Tahsil Dharamjaigarh , District Raigarh, Chhattisgarh

---- Appellants

Versus

1. Ramhaiya @ Padamlochan S/o. Dhansai Rathiya, R/o. Village Bandhapali, Police Station Chhal, District Raigarh Chhattisgarh (Driver).
2. Surendra Kumar Agrawal S/o Shri Pokarmal Agrawal, R/o Village And Post Navapara Chhal, Tahsil Dharamjaigarh, District Raigarh Chhattisgarh (Owner)
3. The Manager, IFCO TOKYO General Insurance Company Limited, Third Floor Shop No. 345, 347 Lal Ganga Shopping Mal, G.E. Road, Raipur, Chhattisgarh

---- Respondents

For Appellants	:	Mr. Sanjeev Sahu, Advocate under instructions of Mr. Manoj Jaiswal, Advocate
For Insurance Company	:	Mr. P. Acharya, Advocate under instructions of Mr. Amrito Das, 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. Challenge is to the award dated 18.07.2011, passed by the Motor Accident Claims Tribunal, Raigarh, Chhattisgarh, in Claim Case No. 40/2009.
2. Vide the impugned award, the Tribunal in a death case of a 18 years old girl has awarded a compensation of Rs.1,82,000/- with interest @ 8% per annum from the date of application.
3. The contention of the counsel for the appellant is that the amount of compensation awarded is too meagre and that the income assessed towards future prospects have not been taken into consideration for

calculating of compensation. Likewise the multiplier applied also should had been 18 and not 16 as has been done by the Tribunal. It was also submitted that the Claimants would be entitled for the compensation under conventional head much more than what has been awarded.

4. The contention of the Insurance Company is that the company had also preferred an appeal challenging the same award so far as the liability which has been fastened upon the Insurance Company vide MAC No. 1196/2011. The said appeal of the company stood allowed on 15.03.2012. The Insurance Company has been exonerated of its liability and the same has since being shifted upon the respondent No.1 & 2 the Driver and Owner of the vehicle. Hence, the Insurance Company does not have much objection on the appeal preferred by the Claimants seeking enhancement.

5. Given the facts and circumstances of the case, if we take into consideration the period of accident i.e. December, 2008. At the relevant point of time even an unskilled labour was drawing an income of more than Rs.150/- a day, which would being the monthly income to Rs.4500/-. The Tribunal in the instant case has assessed the income of the deceased at Rs.30,000/- per annum @ Rs.100/- a day, which in the opinion of this Court too meagre an amount and in the circumstances this Court assesses the income of the deceased at Rs.4500/- a month @ Rs.150/- a day. Assessing Rs.4500/- as monthly income, the yearly income would come to Rs.54,000/-, to which as per the judgment of the Hon'ble Supreme Court the Claimants would also be entitled for 40% of the amount towards future prospects, which comes to Rs.21,600/-, which when added to

the yearly income the figure comes to Rs.65,600/-. Considering the fact that the deceased was a bachelor, the deduction would be half of his yearly income, which comes to Rs.37,800/-, which if multiplied applying the multiplier of 18, since the age of the deceased was only 18, the amount would come to Rs.6,80,000/- towards loss of dependency. It is ordered accordingly. In addition, the Claimants would also be entitled for an additional compensation of Rs.40,000/- under the conventional head instead of Rs.22,000/- as awarded by the Tribunal. Thus, making the total compensation payable at Rs.7,20,400/- instead of Rs.1,82,000/- as awarded by the Tribunal.

6. The enhanced compensation shall also carry interest at the same rate as has been awarded by the Tribunal.

7. In the light of the order of this Court in MAC No.1196/2011 dated 15.03.2012, the Insurance Company is absolved of its liability and the responsibility of payment of compensation shall be shifted upon the respondents no.1 & 2. The Claimants are entitled for execution of the award against the respondents no.1 & 2.

8. The appeal thus stands allowed and disposed off.

Sd/-
(P. Sam Koshy)
Judge

Ved