

HIGH COURT OF CHHATTISGARH, BILASPUR

MAC No. 666 of 2018

- Branch Manager, The Oriental Insurance Co. Ltd. Office Kejriwal Complex, Opp. Ram Mandir, Main Road, Surajpur, District Surajpur, Chhattisgarh, Represented Through The Divisional Manager, The Oriental Insurance Co. Ltd., Divisional Office, Rama Trade Centre, First Floor, Opposite Rajeev Plaza Bilaspur, Chhattisgarh, Pin 495001 (Non-Applicant No.3), District : Bilaspur, Chhattisgarh

---- Appellant

Versus

1. Shiv Prasad Gond S/o Baghadu Gond Aged About 45 Years Caste Gond, R/o Village Badsara, P.S. And Tahsil Bhaiyathan, District Surajpur, Chhattisgarh (Claimant), District : Surajpur, Chhattisgarh
2. Bholu Shankar Sahu S/o Tilakdhari Sahu Aged About 32 Years R/o Bhaiyathan Road, Surajpur, P.S., Tahsil And District Surajpur, Chhattisgarh (Owner), District : Surajpur, Chhattisgarh
3. Kanwal Sai Singh S/o Kripal Singh Aged About 35 Years R/o Village Badsara, P.S. Bhaiyathan, District Surajpur, Chhattisgarh (Driver), District : Surajpur, Chhattisgarh

– Respondents

For the appellant : Mr. Ratan Pusty and Mr. Pallav Mishra,
Advocates.
For respondents : Mr. Praveen Dhurandhar, Advocate.

Hon'ble Shri Justice Ram Prasanna Sharma

Order on Board

07-08-2018.

1. The appellant/Insurance company has preferred this appeal under Section 173 of the Motor Vehicles Act, 1988 *(for short, “the Act, 1988”) against the award dated 27-1-2018 passed by 2nd Additional Motor Accident Claims Tribunal, Surajpur, district Surajpur (CG) in Claim Case No. 76/2017 wherein the said tribunal awarded compensation of Rs. 9,04,800/- on account of

death of one Mohar Lal who was son of the claimant /respondent No.1 Shiv Prasad Gond in a motor accident on 27-8-2016.

2. Learned counsel for the claimants/appellants would submit that the the assessment of the Tribunal is on higher side and the Tribunal calculated 40% of the dependency on wrong calculation, therefore, the award amount be reduced as the same is not just and proper.
3. On the other hand, learned counsel appearing for the respondents would submit that the finding of the tribunal is based on proper appreciation of the evidence which is not liable to be reversed.
4. I have heard learned counsel for both sides and have gone through the record and impugned award passed by the Tribunal.
5. In the present case, date of incident is 27-1-2016. The tribunal assessed Rs.150/- per day as income of the deceased, but it is mentioned in the award (para 15) that minimum wages prevailing at the time of incident is more than Rs.200/- per day. If income of the deceased is assessed to Rs.200/- per day which is minimum wages, then his monthly income comes to Rs.6,000/- and annual income comes to Rs.72,000/-. As the deceased was bachelor dependency would have come to Rs.36,000/- per annum, but the trial Court assessed Rs.27,000/-. As per law laid down by

Hon'ble the Supreme Court in the matter of **Sarla Verma and others vs Delhi Transport Corporation and another, reported in (2009) 6 SCC 121**, 50% should be added for future prospects if the age of the victim is below 40 years. In the present case age of the deceased is 23 years at the time of incident, therefore, 50% should be added for future prospects. Again, as per law laid down by Hon'ble the Apex Court in the matter of **National Insurance Company Limited vs. Pranay Sethi, reported in AIR 2017 SC 5157**, the amount on conventional head is Rs.70,000/-.

6. Looking to all aspects of the matter, the awarded sum cannot be termed to be on higher side.
7. In view of the above, the appeal *sans* merits is liable to be and is hereby dismissed at motion stage itself.

Sd/-

(Ram Prasanna Sharma)
JUDGE

Raju