

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Misc. Appeal (C) No. 52 of 2011**

1. Smt. Usha Jangde, age 38 years, W/o late Punitram Jangde
2. Ku. Laxmi Jangde, age 20 Years, D/o late Punitram Jangde
3. Satish Kumar Jangde, age 18 years, S/o late Punitram Jangde
4. Ku. Maya Jangde, age 15 years, D/o late Punitram Jangde
5. Himanshu Jangde, age 12 years, S/o late Punitram Jangde

Appellants 4 & 5 are minor being represented by their mother appellant no.1 Smt. Usha Jangde

All the above are R/o village Kandeshwarpara, Sirsida, PS Sihava, Tahsil Nagri, District Dhamtari (CG)

---- Appellants**Versus**

1. Santanu Kumar Yadav, age 26 years, S/o Rameshwar @ Ramesharu Yadav
2. Rambharosa Malagar, age 60 years, S/o Sonu Ram

Both respondents 1 & 2 are R/o village Sirsida, PS Sihava, Tahsil Nagri, District Dhamtari (CG)

3. ICICI Insurance Company Limited through Branch Manager, Branch Office at Lal Ganga Shopping Mall, Jail Road, Raipur, District Raipur (C.G.) (Insu. Com. Of Suzuki Motorcycle No. CG 06/C/7950)

---- Respondents

For Appellants	:	Shri J. A. Lohani, Advocate
For Respondent no.3	:	Shri Sourabh Sharma, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order On Board****02/01/2018**

Present is a claimants' appeal under Section 173 of the Motor Vehicles Act assailing the award dated 06.12.2010 passed by the Principle Motor

Accident Claims Tribunal, Dhamtari (CG) in Claim Case No. 107 of 2010. Vide the impugned award, the Tribunal, in a death case under Section 166 of MV Act, has awarded a compensation of Rs.2,92,000/- with interest @ 6% per annum from the date of application.

2. Contention of the counsel for the appellants is that the amount of compensation quantified by the Tribunal is unreasonably low in as much as the income assessed is on the lower side and the multiplier is not in accordance with the judgment of the Supreme Court in the case of **Sarla Verma (Smt) and others Vs. Delhi Transport Corporation and another** reported in **(2009) 6 SCC 121**. Likewise, the income under future prospects has also not been taken into account while quantifying the compensation. It was contended that the amount of compensation awarded under other heads is also on the lower side and prayed for suitable enhancement.

3. Counsel for the Insurance Company, however, opposing the appeal submits that the award seems to be fair and reasonable based on the evidence which has come on record and there is no scope of interference. Thus, prayed for rejection of the appeal.

4. Having heard the contentions put forth on either side and on perusal of the record what is reflected is that, the date of accident, the vehicle involved in the accident and the vehicle being duly insured with respondent no.3 are all admitted factual aspects. The only issue is whether the amount of compensation quantified by the Tribunal is justified and reasonable or not.

5. The date of accident being October, 2009, the income of Rs.3,000/- assessed by the Tribunal seems to be unreasonable and not justified. During the said period, even an unskilled labour would have been earning more than Rs.150/- a day which makes Rs.4,500/- a month. This Court, in the given facts and circumstances of the case, assesses the income of the deceased at

Rs.4,500/- a month in stead of Rs.3,000/- and proceeds to quantify the compensation accordingly.

6. Accepting Rs.4,500/- as the monthly income, yearly income would be Rs.54,000/- to which if 40% is added towards future prospects, the amount comes to Rs.75,600. If 1/4th of the said amount is deducted towards personal expenses considering the total number of claimants, the amount would come to Rs.56,700/- which if multiplied applying the multiplier of 15 as the age of the deceased was 40 years, the amount would come to Rs.8,50,500/-. In addition, the claimants would also be entitled for a lump sum compensation of Rs.70,000/- under conventional heads making the total compensation payable to the claimants at Rs.9,20,500/- in stead of Rs.2,92,000/- as awarded by the Tribunal. The enhanced amount shall also carry interest at the same rate as has been fixed by the Tribunal.

7. The present appeal thus stands allowed.

Sd/-
(P. Sam Koshy)
JUDGE