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HIGH COURT OF CHHATTISGARH AT BILASPUR

MAC No. 243 of 2011

1. Sohan Lal Sahu, S/o. Shivprasad Sahu, Aged about 38 years (Owner)
2. Gendlal Sahu, S/o. Lakhanlal Sahu, Aged about 33 years (Driver)

   Both are R/o. Village Amdi, Tahsil Dhamtari, District Dhamtari Chhattisgarh

---- Appellants

Versus

1. Smt. Rekha Bai, Wd/o. Late Kartikram Sahu, Aged about 50 years,
2. Mohan Lal, S/o. Late Kartikram Sahu, Aged about 24 years,

   Both are R/o. Village Amdi, Tahsil Dhamtari, District Dhamtari Chhattisgarh (Claimants)
3. The United India Insurance Company Limited, Branch Office, Kutchery Chowk, G.E. Road, Raipur, Tahsil and District Dhamtari Chhattisgarh (Insurer)

----Respondents

AND

MAC No. 161 of 2011

1. Smt. Rukhmani, Wd/o. Late Uttam Kumar Netam, Aged about 33 years,
2. Vinay Kumar, S/o. Late Uttam Kumar Netam, Aged about 6 years,
3. Mayank Kumar, S/o. Late Uttam Kumar Netam, Aged about 4 years,
4. Smt. Bhagwati, Wd/o. Late Jeetram Netam, Aged about 70 years,

   Appellants No. 2 & 3 are Minor, through: Natural guardian Mother Smt. Rukhmani, Wd/o. Late Uttam Kumar Netam.

   All R/o. Village Sambalpur, Tahsil Dhamtari, District Dhamtari Chhattisgarh

---- Appellants

Versus

1. Gendlal Sahu, S/o. Lakhanlal Sahu, Aged about 33 years (Driver)
2. Sohan Lal, S/o. Shivprasad Sahu, Aged about 38 years (Owner)

   Both are R/o. Village Amdi, Tahsil Dhamtari, District Dhamtari Chhattisgarh
3. The United India Insurance Company Limited, Through: Branch Office, Kutchery Chowk, G.E. Road, Raipur, Tahsil and District Dhamtari Chhattisgarh (Insurer)

----Respondents

AND

MAC No. 220 of 2011

1. Sohan Lal, S/o. Shivprasad Sahu, Aged about 38 years (Owner)

2. Gendlal Sahu, S/o. Lakhanlal Sahu, Aged about 33 years (Driver)

   Both are R/o. Village Amdi, Tahsil Dhamtari, District Dhamtari Chhattisgarh

---- Appellants

Versus

1. Smt. Rukhmani, Wd/o. Late Uttam Kumar Netam, Aged about 33 years,
2. Vinay Kumar, S/o. Late Uttam Kumar Netam, Aged about 6 years,
3. Mayank Kumar, S/o. Late Uttam Kumar Netam, Aged about 4 years,
4. Smt. Bhagwati, Wd/o. Late Jeetram Netam, Aged about 70 years,

   Respondents No. 2 & 3 are Minor, through: Natural guardian Mother Smt. Rukhmani, Wd/o. Late Uttam Kumar Netam.

   All Respondents No. 1 to 4 are R/o. Village Sambalpur, Tahsil Dhamtari, District Dhamtari Chhattisgarh
5. The United India Insurance Company Limited, Branch Office, Kutchery Chowk, G.E. Road, Raipur, Tahsil and District Dhamtari Chhattisgarh (Insurer)

----Respondents

For Claimants	:	Mr. Dashrath Kushwaha, Advocate
For Owner & Driver	:	Mr. K.K. Dewangan, Advocate
For Insurance Company	:	Mr. Dashrath Gupta, Advocate

Hon'ble Shri Justice P. Sam Koshy

Order on Board

12/01/2018

1. These are three appeals arising out of the same accident, in which two persons have died. MAC Nos. 243/2011 & 220/2011 are appeals filed by the Owner & Driver and MAC No. 161/2011 is an appeal filed by the Claimants in case of deceased Uttam Kumar Netam aged around 37 years. MAC No. 243/2011 arises out of the Claim Case No.21/2009 and MAC Nos. 220/2011 & 161/2011 arise out of the Claim Case No. 22/2009. Both these claim cases have been decided on the same date i.e. on 08.11.2010, decided by the Motor Accident Claims Tribunal, Dhamtari, Chhattisgarh.

2. While passing the two awards, the Tribunal has partly exonerated the Insurance Company in both the claim cases and fastened the

liability of payment of compensation of the claim case to the extent of Rs.1,00,000/- upon the Insurance Company and the balance of amount was ordered to be paid by the Owner of the offending vehicle. The Insurance Company was partly exonerated only on the ground that the vehicle was registered as a private vehicle and it was carrying passengers and that the liability if any upon the Insurance Company was only to the extent of Rs.1,00,000/- and it was on this ground that the liability was restricted upon the Insurance Company of Rs.1,00,000/-. It is this observation by the Tribunal which has been challenged by the Owner and Driver in two appeals i.e. MAC Nos. 243/2011 & 220/2011.

3. However, on perusal of the record it would show that the Insurance Company in the instant case had issued a package policy, which otherwise means a comprehensive policy, which also covers the risk of the occupants traveling in the said vehicle and as such there cannot be any restriction on the amount of compensation covering the risk of the occupants in the said vehicle. In view of the same the finding of the Tribunal in restricting the liability of the Insurance Company to the tune of Rs. 1,00,000/- thus is not proper, legal and justified and the same deserves to be and is accordingly set-aside and these two appeals i.e. MAC Nos. 243/2011 & 220/2011 are allowed to the extent that the Insurance Company, the Owner & Driver shall be jointly and severally be responsible to pay the entire amount awarded and it shall be the responsibility of the Insurance Company to pay the entire amount awarded.

4. So far as the appeal of the Claimants seeking enhancement i.e. MAC No. 161/2011 is concerned, the counsel for the appellants

submits that the Tribunal has not properly taking into account the income of the deceased while quantifying the compensation. It was further argued that the Claimants would also have been entitled for compensation under future prospects and that the multiplier applied was also not proper. In addition, the amount of compensation under the conventional head also is on the lower side.

5. If we peruse the record, it would reveal that exhibit P/9 is a salary slip of the deceased, which was produced and exhibited before the Tribunal, where the gross salary of the deceased was shown as Rs.15,950/- and that after deduction the Tribunal had taken the income of the deceased at Rs.6,861/- for quantifying the compensation. Perusal of the said document exhibit P/9 would reveals that of other deductions, which have been made, an amount of approximately Rs.1100/- was contribution towards the provident fund. Likewise, an amount of Rs.1800/- towards the insurance premium and an amount of Rs.1630/- was the contribution towards the cooperative society, which all are the amount, which otherwise were part of the income of the deceased and which he would have got at the end of the service period.

6. Thus, this Court has no hesitation in adding these amounts to the income assessed by the Tribunal, which makes the monthly income of the deceased at Rs.11,391/- per month and Rs.1,36,692/- annually. The age of the deceased was 37 years and since he was an employee of the Life Insurance Corporation, which proves that he was a permanent employee having permanent salary, he would be entitled for 50% of the income towards the future prospects, which brings the amount to Rs.68,346/- which when added to the yearly

income of the deceased, the total income would come to Rs.2,05,038/-, of which 10% i.e. an amount of Rs.20,500/- would be deducted towards income tax, which would bring the annual income of the deceased at Rs.1,84,538/-, of which if 1/4th has to be deducted towards personal expenses, the amount would come to Rs.1,38,403/-/-, which if multiplied applying the multiplier of 15, the amount comes to Rs.20,76,052/-, to which the Claimants shall also be entitled for an amount of Rs.70,000/- towards the compensation under conventional head to make the total amount payable at Rs.21,46,052/-. It is ordered accordingly. The Claimants shall be entitled for an amount of Rs.21,46,052/- instead of Rs.6,62,656/-.

7. The said enhanced amount shall also carry interest at the same rate as has been awarded by the Tribunal.

8. As a result, the appeal by the Claimants i.e. MAC No. 161/2011 also stands allowed and disposed of.

Sd/-
(P. Sam Koshy)
Judge

Ved