

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**MAC No. 883 of 2012**

1. Rupchand Dewangan, S/o. Late Loknath, Aged about 49 years,
 2. Mukesh Dewangan, S/o. Late Rupchand Dewangan, Aged about 30 years,
 3. Vikas Dewangan, S/o. Rupchand Dewangan, Aged about 26 years,
 4. Amita Dewangan, D/o. Rupchand Dewangan, Aged about 23 years,
- All are R/o. Ward No.7, Shankarpur, Rajnandgaon, Tahsil and District Rajnandgaon, Chhattisgarh

----Appellants**Versus**

1. Hari Yadav, S/o. Ramdev Yadav, Aged about 45 years, R/o. Calcutta Dakhneshwar Mochipar 700076, Police Station Balghariya, District Calcutta.
2. Branch Manager, National Insurance Company, Branch Office at Akash Ganga Complex Kamthi Line, Rajnandgaon, Chhattisgarh

----Respondents

For Appellants	:	Mr. P. Acharya, Advocate (Amicus appointed by the Court)
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Hon'ble Shri Justice P. Sam Koshy**Order on Board****07/03/2018**

1. Heard on I.A. No.1, which is an application for condonation of delay.

For the reasons assigned in the application and finding them to be satisfactory, I.A. No.1 is allowed and delay of 114 days in filing the appeal stands condoned.
2. The present is an appeal by the Claimants under Section 173 of the Motor Vehicles Act. Challenge is to the award dated 13.02.2012, passed by the Motor Accident Claims Tribunal, Rajnandgaon, Chhattisgarh, in Claim Case No. 12/2010.
3. Vide the impugned award, the Tribunal in a death case has awarded a compensation of Rs.6,90,000/- with interest @ 6% per annum from the date of application.

4. Since there was no representation on behalf of the appellants, this Court thought it fit for taking assistance of Mr. P. Acharya, Advocate to assist the Court for the disposal of the appeal as the appeal was of year 2012. There is also no representation on behalf of the respondents.
5. The present is a case where the deceased Kamla Dewangan was traveling on the motorcycle bearing registration No. CG/08/E/0513, sitting behind one Ajay Yadav, when they were hit by a Truck bearing registration No. WB/23/A/1521 owned by the respondent no.1 and insured by the respondent no.2. The legal representatives of the deceased filed a claim application under Section 166 of the Motor Vehicles Act which stood decided vide the impugned award.
6. The contention of the learned counsel appearing for the appellants is that the Tribunal has erroneously deducted 50% towards the personal expenses and so also the income under the future prospects has not been taken into account while quantifying the compensation. He further submits that the multiplier also deserves to be enhanced as the Tribunal has applied the multiplier of 11, whereas the multiplier ought to have been 13. Thus prayed for the award to be suitably modified.
7. Given the facts and circumstances of the case, since there is no representation on behalf of the respondents, nor is there any material on record to show that the Insurance Company also has challenged the award, this Court proceeds to finally decide the appeal.
8. This Court does not find the income of Rs.1,20,000/- annually of the deceased to be in any manner unreasonable as the same is based

on the Income Tax return of the deceased. Likewise, the law by now is well settled that the Claimants would also be entitled for compensation in accordance to the age of the deceased and would also be entitled for income under future prospects for the purpose of quantifying the compensation.

9. The deceased in the instant case was aged around 48 years. The income towards future prospects to be taken into consideration would be 25%. 25% of Rs.1,20,000/- would come to Rs.30,000/-, which would bring the annual income of the deceased to Rs.1,50,000/- of which taking into consideration the fact that the deceased was a married lady, the deduction towards personal expenses in the light of the judgment of the Hon'ble Supreme Court in the case of "**Sarla Verma & Ors vs Delhi Transport Corp. & Anr.**" (2009) 6 SCC 121) and all subsequent decisions would be 1/3 which would bring the income to Rs.1,00,000/-, which will have to be multiplied applying the multiplier of 13. Thus, the Claimants would be entitled for a loss of dependency of Rs.13,00,000/- in addition the Claimants would also be entitled for a lump sum compensation of Rs.70,000/- towards conventional head to bring the total compensation payable at Rs.13,70,000/- instead of Rs.6,90,000/- as awarded by the Tribunal.
10. The enhanced amount shall also carry interest at the same rate as awarded by the Tribunal.
11. The appeal thus stands allowed and disposed off.
12. This Court extends a word of appreciation to Mr. P. Acharya, Advocate for rendering the assistance in the disposal of the case.

13. The Registry is directed to send a copy of this judgment to the Secretary, District Legal Services Authority, Rajnandgaon, Chhattisgarh, who in turn, is directed to make all efforts to ensure serving a copy of this judgment to the Claimants at the address shown in the cause title.

Sd/-
(P. Sam Koshy)
Judge

Ved