NAFR

HIGH COURT of CHHATTISGARH, BILASPUR

MAC No. 796 of 2011

1. Smt. Raimat Bai W/o late Shri Ram, aged about 40 years.
2. Sukhsen Singh, aged about 23 years.
3. Suresh Singh, aged about 21 years.
4. Miss. Sukrita, aged about 18 years.
5. Shiv Kumar, aged about 15 years.
6. Miss. Sunita, aged about 12 years.
7. Sunil, aged about 9 years.
   Appellants No.2 to 7 are son/daughter of late Shri Ram. Appellants No.5 to 7 are minors through legal guardian mother-Smt. Raimat Bai-Appellant No.1.
   All R/o Village Banka PO Beltara, PS Ratanpur, District Bilaspur (CG).

---- Appellants

Versus

1. Ashok Raj S/o Tulsi Ram, age 27 years R/o Bagdeva, PS Ratanpur, District Bilaspur (CG).
2. Devanand Tekam S/o Maheshram Tekam, R/o Towerpara Pali, Tahsil Pali, Dist. Korba.
3. Iffco Tokiyo General Insurance Co. Ltd. through Branch Manager, Br. Office, Third Floor 345-347, Lalganga Shopping Mall G.E. Road Raipur (CG).

---- Respondents

For Appellants	:	Shri PK Tulsyan, Advocate.
For Respondent No.3	:	Shri P. Acharya, Advocate.

SB: Hon'ble Shri Justice P. Sam Koshy

Order On Board

16.01.2018

1. The present appeal under Section 173 of the Motor Vehicles Act has been filed by the claimants seeking enhancement of compensation against the award dated 27.10.2010 passed by the 5th Additional Motor Accident Claims Tribunal, Bilaspur (in short, the Tribunal) in Claim Case No.135 of 2010. Vide the said impugned award, the Tribunal has awarded a compensation of Rs.3,32,000/- with interest

@ 7.5 percent per annum from the date of application.

2. Learned counsel appearing for the appellants submits that the income assessed by the Tribunal is on the lower side. He further submits that the deduction made by the Tribunal is 1/3rd whereas, it ought to have been 1/5th considering the total number of claimants. Likewise, the claimants would also be entitled for income towards future prospects. Therefore, the award deserves to be enhanced suitably.
3. Learned counsel for the insurance company however opposes the appeal on the ground that the award is fair and reasonable and is based on the material evidence which have come on record and also considering the age of the deceased and therefore there is no scope of any enhancement.
4. A perusal of record would show that the income assessed by the Tribunal is Rs.2500/- whereas the period of accident is April, 2009. During the said period undisputedly even an unskilled labour would had been earning more than Rs.150/- per day i.e. Rs.4500/- per month. This court thus has no hesitation in assessing the income of the deceased considering the period of accident at Rs.4500/- per month instead of Rs.2500/- as assessed by the Tribunal. In addition, the claimants are also entitled for 25 percent of income towards future prospects while quantification of the compensation in the light of recent larger Bench decision of Supreme Court in case of National Insurance Co. Ltd. Vs. Pranay Sethi, decided on 31.10.2017 in SLP(C)No.25590 of 2014.

5. Accordingly, accepting the monthly income of the deceased at Rs.4500/- the yearly income would be Rs.54,000/-to which if 25 percent of it is added towards future prospects, the amount would reach to Rs.67,500/- of which if 1/5th is deducted towards personal expenses considering the total number of claimants, the amount would come to Rs.54,000/-, which if multiplied applying multiplier of 13, the compensation would reach to Rs.7,02,000/-. Thus, it is ordered that the claimants shall be entitled for Rs.7,02,000/- towards loss of dependency. In addition, the claimants are also entitled for a lump sum compensation of Rs.70,000/- under conventional heads making total compensation payable to the claimants at Rs.7,72,000/-. It is ordered accordingly that the claimants shall be entitled for a total compensation of Rs.7,72,000/-instead of Rs.3,32,000/- as awarded by the Tribunal.
6. The enhanced amount of compensation shall also carry interest at the same rate as awarded by the Tribunal.
7. Accordingly, the appeal stands allowed and disposed of.

Sd/-

(P.Sam Koshy)
Judge

inder