NAFR

HIGH COURT of CHHATTISGARH, BILASPUR

MAC No. 734 of 2011

1. Smt. Shashi Sharma, W/o late Pankaj Sharma, aged about 35 years, occupation House wife.
2. Ku. Ekta Sharma, D/o late Pankaj Sharma, aged about 14 years
3. Shrijan Sharma, S/o late Pankaj Sharma, aged about 10 years.
4. Smt. Saroj Sharma W/o late Brijbhushan Sharma, aged about 60 years.

Appellants No.2 & 3 are minors through legal guardian mother-Smt. Shashi Sharma-Appellant No.1.

All R/o near Shitla Mandir, Heerapur, Raipur, Tehsil and Distt. Raipur (CG).

---- Appellants

Versus

1. Tikam Singh Som S/o Agbar Singh Som, aged about 34 years, Truck Driver, R/o village Gitarras (Behind Pahadi) Sihawa, PS Sihawa, Tehsil and Distt. Dhamtari (CG).
3. Sayad Sattar Ali Sayad Sarfaraj Ali, R/o Ashok Park, Dharampura Jagdalpur, Tashil And Dist. Jagdalpur.
2. The Reliance Gen. Insurance Ltd. Through Managing Director/ In Charge Officer, Branch Office, Shop No. 412/413, 4th Floor Ravi Bhawan, Jaistambh Chowk, Raipur

---- Respondents

For Appellants	:	Shri Shivendu Pandya, Advocate.
For Respondent No.3	:	Shri Tarkeshwar Nande, Advocate.

SB: Hon'ble Shri Justice P. Sam Koshy

Order On Board

15.01.2018

1. The present appeal under Section 173 of the Motor Vehicles Act has been filed by the claimants seeking enhancement against the award dated 29.09.2010 passed by the 7th Additional Motor Accident Claims Tribunal, Raipur (in short, the Tribunal) in Claim Case No.96 of 2008. Vide the said impugned award, the Tribunal in a death case has awarded a compensation of Rs.4,16,000/- with interest @ 6 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 1/4th 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 hence there is no scope of any enhancement.
4. A perusal of record would show that the accident is of March, 2008. The deceased was having business of fertilizer and seed shop and was paying income tax. Income tax return was also produced before the Tribunal. Since he was having business, it is to be presumed that the business is being carried further by the family members. However, there would had been some income which the deceased must have been saving by virtue of his working in the shop and for which now the claimants would now be requiring to engage somebody to operate the business. Thus, this court for the purpose of quantifying the compensation, assesses the monthly income at Rs.5000/- and Rs.60,000/- annually.
5. Accordingly, accepting Rs.60,000/- as yearly income to which if 40 percent is added towards future prospects, the figure would reach to Rs.84,000/-, of which if 1/4th is deducted towards personal expenses

considering the total number of claimants, the income would come to Rs.63,000/-, which if multiplied applying the multiplier of 15, the compensation would reach to Rs.9,45,000/-. Thus, it is ordered that the claimants shall be entitled for Rs.9,45,000/- for loss of dependency. The claimants shall also be entitled for a lump sum compensation of Rs.70,000/- under conventional heads to make the total compensation payable to the claimants at Rs.10,15,000/-Thus, the total compensation payable to the claimants would become Rs.10,15,000/-. It is ordered accordingly that the claimants shall be entitled for a total compensation of Rs.10,15,000/- instead of Rs.4,16,000/-.

6. The enhanced amount of compensation shall also carry interest at the same rate as has been awarded by the Tribunal.
7. Consequently, the appeal filed by the claimants stands allowed and disposed of.

Sd/-
(P.Sam Koshy)
Judge

inder