

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MISC. APPEAL (C) NO. 859 OF 2011

1. Koushal Das Manikpuri, S/o Late Adhin Das, aged about 55 years
2. Gains Das Manikpuri, S/o Koushal Das Manikpuri, aged about 38 years
3. Anup Das Manikpuri, S/o Koushal Das Manikpuri, aged about 30 years

All R/o Nagar Nigam, Durg, Ward, Urla, Police Station Pulgaon, Post Mohan Nagar, Durg, Tahsil & District Durg (C.G.)

... Appellant

versus

1. Saheb Das Manikpuri, aged about 28 years, S/o Shri Keju Das Manikpuri, R/o Nagar Nigam Ward, Sangam Chowk, Near High School, Urla, Police Station, Pulgaon, District Durg (C.G.)
2. Khursid Ali, S/o Saiyad Faij Ali, aged about 40 years, R/o Kachchari Road, Durg, Tahsil & District Durg (C.G.)
3. I.C.I.C.I. Lombard General Insurance Company Limited, through Branch Manager, Pukhraj Compound, Upon State Bank of Indore, Station Road, Durg, District Durg (C.G.)

... Respondents

For Appellants:

Mr. C.R. Sahu, Advocate.

For Respondent No.3:

Mr. A.L. Singroul, Advocate, under instructions of Mr. Sourabh Sharma, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

18/01/2018

1. The present is a claimants' appeal under Section 173 of the Motor Vehicles Act, 1988, seeking for enhancement of the compensation awarded by the 11th Additional Motor Accident Claims Tribunal (F.T.C.), Durg, in Claim Case No. 28/2009.
2. Vide the impugned award, the learned Tribunal, in a death case, under Section 166 of the Motor Vehicles Act, has awarded a compensation of Rs.1,19,500/- to the appellant-claimants with interest thereon at the rate of 6% per annum from the date of presentation of the claim application.
3. Learned counsel for the appellant-claimants submits that the Tribunal has assessed the income which is unreasonably low considering the period of accident that is of March, 2009. He further submits that the claimants are entitled for compensation under the future prospects so also

for a higher amount under the conventional heads instead of what has been awarded by the Tribunal. He thus prayed for a suitable enhancement of the amount of compensation.

4. Learned counsel for respondent no.3-insurance company however opposing the appeal submits that the award is fair and reasonable and there is no scope of any interference as the same is based on the evidence which have come on record. He thus prayed for the rejection of the appeal.

5. Having considered the submissions put forth on either side and on perusal of record, this Court is of the opinion that the income assessed by the Tribunal seems to be unreasonably low, as on the period of accident that is March, 2009, even a daily wage worker was earning more than Rs.100/- a day which makes the monthly income at Rs.3000/- and Rs.36,000/- yearly, instead of Rs.15,000/- per year, which has been assessed by the Tribunal. This Court thus assesses the monthly income of the deceased at Rs.3000/-.

6. Accordingly, accepting Rs.3000/- as the monthly income of the deceased, the yearly income comes to Rs.36,000/- to which if 10%, i.e., Rs.3600/-, is added towards future prospects, the amount would come to Rs.39,600/- of which if 1/3rd, i.e., Rs.13,200/-, is deducted towards personal expenses, the amount would come to Rs.26,400/- which if multiplied applying the multiplier of 11, the amount would reach to Rs.2,90,400/- which is the amount towards loss of dependency, instead of Rs.1,10,000/- as has been assessed by the Tribunal. In addition, the claimants are also entitled for an additional lump sum compensation of Rs.70,000/- under conventional heads, instead of what has been awarded by the Tribunal. Thus, making the total compensation payable to the

claimants at Rs.3,60,400/-, instead of Rs.1,19,500/- which the Tribunal has awarded.

7. The mpugned award stands accordingly modified and enhanced to the extent that the claimants shall be entitled for a total compensation of **Rs.3,60,400/-** and that the enhanced amount shall also carry interest at the same rate as has been fixed by the Tribunal.

8. The appeal stands allowed and disposed of accordingly.

Sd/-
(P. Sam Koshy)
Judge