

HIGH COURT OF CHHATTISGARH AT BILASPURMAC No. 682 of 2012

1. Smt. Meena Sinha W/o Late Shri Narayan Kumar Sinha, aged about 40 years.
2. Ku.Bhawna Sinha D/o Late Shri Narayan Kumar Sinha, aged about 21 years.
3. Ku.Kalyani Sinha D/o Late Shri Narayan Kumar Sinha, aged about 17 years.
4. Chetan Sinha S/o Late Shri Narayan Kumar Sinha, aged about 16 years.

Appellants No. 3 & 4 are minor, represented through their legal guardian mother Smt. Meena Sinha.

All are R/o Behind Balaji, Auto Mobiles, Laxmi Nagar, Pachpedi Naka, Raipur, District Raipur (C.G.).

---Appellants

Versus

1. Santosh Kumar Yadav S/o Dayaluram Yadav, R/o village Tokro, Police Station Abhanpur, District Raipur (C.G.) (Driver).
2. Amritlal Sahu S/o Shri Dhanuram Sahu, R/o Ghatkarra, Post Pod, Police Station Gariyaband, Tahsil and District Raipur (C.G.) (Owner).

---Respondents

For appellants/claimants : Shri Shivendu Pandya, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

16/02/2018

1. Present is an appeal filed by the claimants under Section 173 of the Motor Vehicles Act assailing the award dated 02/02/2011 passed by the learned Tenth Additional Motor Accident Claims Tribunal, Raipur (C.G.) in Motor Accident Claim Case No. 100/2008.

2. Vide the impugned award, the Tribunal in a death case under Section 166 of the Motor Vehicles Act has awarded a compensation of Rs.3,34,000/- with interest @ 6% per annum from the date of application.
3. The counsel for the appellants/claimants submits that, the quantum of compensation awarded by the Tribunal is on the lower side and therefore the same deserves to be suitably enhanced. He further submits that, the deceased in the instant case was a Pharmacist and was working with the State Government at the Primary Health Centre at the time of accident. He further submits that, a departmental witness - AW/3 - Shri Basant Kumar Agrawal was also examined and the salary slip Ex-P/8 was also exhibited which shows the monthly income of the deceased at Rs.10,935/-. However, the Tribunal in spite of all these has assessed the income of the deceased at Rs.3,000/- per month and quantified the compensation accordingly. He thus prayed for suitable enhancement of the award.
4. Taking into consideration the entire facts and circumstances of the case, except for the evidence of AW/3, there does not seem to be any other evidence to prove his employment part with the State Government. Though, this Court does feel that the income assessed at Rs.3,000/- is unreasonably low particularly when it is an accident of year-2008.
5. This Court in the given facts and circumstances assesses the income of the deceased at Rs.200/- per day i.e. Rs.6,000/- per month instead of Rs.3,000/- as assessed by the Tribunal.

6. Assessing Rs.6,000/- as the monthly income of the deceased, the yearly income would come to Rs.72,000/- of which if 1/4th is deducted towards personal expenses, the amount left would be Rs.54,000/- which if multiplied by applying multiplier of 13, the amount would come to Rs.7,02,000/-. Thus, the claimants shall be entitled for a compensation of Rs.7,02,000/- towards loss of dependency. In addition, the claimants shall also be entitled for a compensation of Rs.70,000/- under the conventional head to make the total compensation payable at Rs.7,72,000/- instead of Rs.3,34,000/- as awarded by the Tribunal. The said enhanced amount shall also carry interest at the same rate as has been awarded by the Tribunal.

7. The appeal stands allowed and disposed off.

Sd/-

(P. Sam Koshy)
JUDGE

Sumit