

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 797 of 2014**

1. Asha Devi Wd/o Late Mahendra Verma Aged About 40 Years
2. Jitendra S/o Late Mahendra Verma Aged About 17 Years
3. Ku. Rina D/o Late Mahendra Verma Aged About 15 Years
4. Ku. Soniya D/o Late Mahendra Verma Aged About 13 Years
5. Vivek S/o Late Mahendra Verma Aged About 11 Years
6. Manish S/o Late Mahendra Verma Aged About 8 Years

Appellants 2 to 6 are minor hence impleaded through their natural guardian appellant No.1 Asha Devi Wd./o Late Mahendra Verma, age 40 years.

---- Appellants/Claimants**Versus**

1. Abdul Gani Meman S/o Hazi Mohd. Ismail R/o Momin Para, P.S. Azad Chowk, Raipur, Distt. Raipur C.G.
2. Mohd. Asif Memon S/o Abdul Rasid Memon R/o Raman Mandir, Fafadih, Raipur, Tah. And Distt. Raipur C.G.
3. The Oriental Insurance Company Ltd. Through- Divisional Manager, Office At- Kachery Chowk, Division No. 01, Jail Road, Raipur C.G.

---- Respondents

For Appellants
For Respondent No.3

Shri Amiyakant Tiwari, Advocate.
Shri Arvind Shrivastava, Advocate.

Hon'ble Shri Justice Gautam Chourdiya**Order On Board****15/11/2018**

1. This is claimants' appeal seeking enhancement of compensation awarded by the 2nd Additional Motor Accidents Claims Tribunal,

Raipur (for short 'the Tribunal') in claim case No.42 of 2012 vide award dated 18.10.2013.

2. As against compensation of Rs.19,08,000/- claimed by the unfortunate widow and minor children of the deceased - Mahendra Verma by filing claim application under Section 166 of the Motor Vehicles Act, 1988 (henceforth 'the Act') for his death in the motor accident on 13.05.2010, the Tribunal awarded a total sum of Rs.16,99,200/- along with interest at the rate of 6% per annum from the date of claim application till its actual payment.
3. The Tribunal, on close scrutiny of the evidence led by the parties held that the accident had occurred due to rash and negligent driving of Crane bearing registration No.C.G04/DM/1238 by its driver – Abdul Gani, i.e., respondent No.1 herein, Mahendra Verma, aged about 45 years, died on account of injuries sustained by him in the said accident; respondent No.3 /Oriental Insurance Company Limited liable for payment of compensation as it could not establish violation of policy conditions; assessed and awarded the aforesaid sum as compensation.
4. Learned counsel appearing for the appellants would submit that the Tribunal has wrongly deducted $\frac{1}{4}$ towards personal and living expenses of deceased whereas it should have been $\frac{1}{5}$. He further submits that Tribunal has fallen in error in applying the proper multiplier of 14 instead of 15. The impugned award therefore liable to be enhanced on the aforesaid grounds.
5. On the other hand, learned counsel appearing for respondent No.3 submits that the amount of compensation awarded by the

Tribunal is just and proper compensation in the facts and circumstances of the case and needs no interference.

6. I have heard learned counsel for the parties and perused the award impugned including the record of the Tribunal.
7. As regards the age of the deceased, as per pleading in the claim petition, the evidence of wife of the deceased, the deceased was 45 years of age. In this view of the matter, the Tribunal was justified in considering the deceased to be in the age group of 41 to 45 and applying the multiplier of 14. As regards, the deduction of $\frac{1}{4}$ towards personal and living expenses of the deceased, the Tribunal has not committed any illegality in this regard as there are total six claimants in this case and therefore in view of **Sarla Verma & Ors Versus Delhi Transport Corporation reported in 2009 (6) SCC 121**, $\frac{1}{4}$ deduction towards personal and living expenses is just and proper. So far as, the amount awarded under the conventional heads is concerned, the same cannot be said to be on the lower side. Thus, the Tribunal has awarded a total compensation of Rs.16,99,200/- which appears to be just and proper and needs no interference.
8. For the foregoing reasons, the appeal filed by the appellants for enhancement of compensation is, therefore, liable to be and is hereby dismissed.
9. No order as to costs.

Sd/-
Gautam Chourdiya
Judge

Akhilesh