

HIGH COURT of CHHATTISGARH, BILASPUR**MAC No. 1728 of 2017**

Cholamandlam M S General Insurance Company Pvt. Ltd. Opposite L I C Building Pandri Raipur, Chhattisgarh, Through Deputy Manager (Legal), Cholamandlam M S General Insurance Company, Opposite Life Insurance Corporation Pandri, P.S. Pandri District Raipur, Chhattisgarh.

---- Appellant**Versus**

1. Smt. Seema Kumari Jha W/o Late Neeraj Kumar Jha, Aged About 39 Years
2. Ku. Akansha D/o Late Neeraj Kumar Jha, Aged About 10 Years
3. Ku. Akriti D/o Late Neeraj Kumar Jha, Aged About 7 Years
Respondents No.2&3 are Minor Through Mother Smt. Seema Kumari Jha.
4. Shri Sarda Prasad Jha S/o Late Vishnu Jha, Aged About 70 Years
5. Smt. Madhuri Jha W/o Sarda Prasad Jha, Aged About 63 Years
Respondents No.1 to 5 are R/o Sector 3 Shivanand Nagar Khamtra Raipur, Tehsil & District Raipur, Chhattisgarh.
6. Dhaneshwar Nirmalkar S/o Shri Dharam Nirmalkar, R/o Ranwabhata Bajrang Chowk P.S. Khamtra Raipur, Tehsil & District Raipur, Chhattisgarh.
7. Abdul Wazid, New Bharat Engineering Works, Moudahapara Raipur Tehsil & District Raipur, Chhattisgarh.

---- Respondents

For Appellant	:	Shri Ghanshyam Patel, Advocate.
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Hon'ble Shri Justice P. Sam Koshy**Judgment On Board****02.01.2018**

1. The present appeal under Section 173 of the Motor Vehicles Act has been filed by the insurance company assailing the award dated 06.10.2017 passed by the 9th Additional Motor Accident Claims Tribunal Raipur (in short, the Tribunal) in Claim Case No. 812/2016. Vide the said impugned award, the Tribunal in a death case has awarded a compensation of Rs.24,40,110/- to the claimants along

with interest @ 9 percent per annum from the date of application.

2. The primary challenge to the award is the quantum of compensation.

According to the appellant, the multiplier applied in the instant case is 15 whereas, multiplier of 14 ought to have been applied by the Tribunal while computing the compensation. Likewise, it was also the contention of the appellant that the compensation under other heads awarded by the Tribunal is highly exorbitant. Further, there is an element of contributory negligence as the deceased came under the rear wheel of the vehicle involved in the accident which establishes certain element of contributory negligence.

3. A perusal of records would reveal that the insurance company in the instant case has not led any evidence to substantiate its contention. So far as contributory negligence is concerned, since there is no evidence led by the insurance company, the said issue does not seem to be proved or established by the insurance company. As far as the multiplier is concerned, though there is a finding that the deceased was aged around 43 years and as per decision of Supreme Court in case of Sarla Verma and Ors. Vs. Delhi Transport Corporation and Anr. 2009 (6) SCC 121, the multiplier would had been 14, but considering the age of the deceased and also the total number of claimants, this court is of the opinion that the issue of multiplier is not a vital factor for interfering with the impugned award.
4. So far as the compensation under other heads are concerned, considering the total number of claimants which are 5, this court is of the opinion that compensation of Rs.1,20,000/- awarded under other

heads is neither excessive nor exorbitant.

5. Accordingly, the appeal being devoid of merit is liable to be and is dismissed.

Sd/-
(P.Sam Koshy)
Judge

inder