NAFR

HIGH COURT of CHHATTISGARH, BILASPUR

MAC No. 844 of 2015

1. Smt. Madhulata Singh Parihar W/o Late Shri Akhilesh Singh Parihar Aged About 26 Years
2. Sanskar Singh S/o Late Shri Akhilesh Singh Parihar Aged About 4 Years
3. Smt. Vaidehi Singh Parihar W/o Rajendra Singh Parihar Aged About 55 Years.
   Respondent No.2 minor Through Mother Smt. Madhulata Singh Parihar Wife Of Late Shri Akhilesh Singh Parihar
   All R/o Village Sambalpur, Post Chakarbhatha, P.S. Mungeli, Tahsil And District Mungeli Chhattisgarh.

---- Appellants

Versus

1. Ramdeen Sahu S/o Pitamber Sahu Aged About 24 Years R/o Village Dhodhma Naya Para, P.S. Jarhagaon, Tahsil Jarhagaon District Mungeli Chhattisarh.
2. Mahendra Singh S/o Roshan Singh R/o Hig-22, Arya Colony, Tifra, Bilaspur, P.S. Sirgitti, Tahsil And District Bilaspur Chhattisgarh.
3. The Oriental Insurance Company Limited Through Its Branch Manager, Branch Office Rama Trade Center, In Front Of Rajeev Plaza, Tahsil And District Bilaspur Chhattisgarh.

---- Respondents

MAC No. 850 of 2015

1. Smt. Chitralekha Patel W/o Late Shri Shailendra Patel Aged About 34 Years
2. Ku. Ayush Patel D/o Late Shri Shailendra Patel Aged About 7 Years
3. Smt. Kamla Patel W/o Shri Daman Patel Aged About 62 Years
4. Dhaman Patel S/o Lae Shri Premlal Patel Aged About 64 Years
   Respondent No.2 is minor through legal guardian mother Smt. Chitralekha Patel.
   All R/o Village Maalkharoda, Post Maalkharoda, District Janjgir-Champa, Current Addrss Of Appellants No. 1and 2 C/o C.B. Patel, Quarter No. F-113 Hasdev Thermal Power Project, Korba West, Alaknanda Vihar, Korba Tahsil And District Korba Chhattisgarh.

---- Appellants

Versus

1. Ramdeen Sahu S/o Pitamber Sahu Aged About 24 Years R/o Village Dhodhma Naya Para, P.S. Jarhagaon, Tahsil Jarhagaon District Mungeli Chhattisarh.
2. Mahendra Singh S/o Roshan Singh R/o Hig-22, Arya Colony, Tifra, Bilaspur, P.S. Sirgitti, Tahsil And District Bilaspur Chhattisgarh.
3. The Oriental Insurance Company Limited Through Its Branch Manager, Branch Office Rama Trade Center, In Front Of Rajeev Plaza, Tahsil And District Bilaspur Chhattisgarh.

---- Respondents

For Claimant	:	Shri AL Singroul, Advocate.
For Insurance Com.	:	Shri Pallav Mishra, Advocate.

SB: Hon'ble Shri Justice P. Sam Koshy

Judgment on Board

25.01.2018

1. These two appeals arise out of same accident in separate claim case Nos.306/2014 and 307 of 2014, decided on 03.03.2015 by the Motor Accident Claims Tribunal, Bilaspur (in short, the Tribunal). Vide the impugned award the Tribunal in two death cases has awarded compensation of Rs.20,53,420/- and Rs.33,73,776/- respectively to the claimants along with interest @ 7.5 percent per annum from the date of application.
2. The sole ground which has been raised by the appellants are that, the order of Tribunal is erroneous to the extent of the deduction being made towards income tax @ 20 percent. According to him, the income assessed by the Tribunal was Rs.3,36,942/- and Rs. 3,88,332/- respectively per annum and that on the date of accident i.e. 18.02.2014, an income up to Rs.2,00,000/-was income tax free. Therefore, the only taxable income was Rs.1,36,942/- and Rs.1,88,332/- respectively and on the said taxable income, the tax charged would be 10 percent, as such, the deduction ought to have been made 10 percent instead of 20 percent so made by the Tribunal. Thus, prayed for the award to be suitably modified and the amount of compensation be enhanced in both the appeals.
3. Learned counsel for the insurance company however opposes the appeals and submit that deduction made at 20 percent is just and proper in the light of decision of Supreme Court in case of Shyamwati

Sharma & Ors. Vs. Karam Singh & Others, 2010(12)SCC 378 and also in case of Kaladevi and Others Vs. Bhagwan Das Chauhan and Others, 2015(2)SCC 771. According to counsel for the respondent, in both there cases the deductions made by the High Court was 30 percent and 20 percent and in both the appeals, the Supreme Court has not interfered with the deductions made towards income tax.

4. Having heard the counsel on either side and on perusal of the records, it would be relevant to refer the judgment which has been relied upon by the respondent in case of Shyamwati (Supra). The Supreme Court in paragraph 8 of said judgment has held as under :

> "8......The income was in a range which was exempt from tax, if the permissible deductions were applied. Therefore, this court did not make any deduction towards income tax. But, this court made it clear that where the annual income is in the taxable range, **appropriate deduction** should be made towards tax."

5. If we consider the words emphasized by this court in the preceding paragraph, it clearly reflects that even the Supreme Court had clearly indicated that the deduction towards income tax should be "appropriate deduction" that would be applicable on the date of accident.

6. In these case indisputably the income assessed by the Tribunal itself are Rs.3,36,942/- and Rs.3,88,332/- respectively. It is known fact that on the date of accident i.e. in the year, 2014, the income up to Rs.2,00,000/-were exempted from income tax, and therefore, the only taxable incomes so far as deceased are concerned would had been Rs.1,36,942/- and Rs.1,88,332/- respectively. For the said amounts,

the slab of income tax applicable would be 10 percent and not 20 percent as has been made by the Tribunal. Thus, this court has no hesitation in holding that the deduction made in these cases ought to have been 10 percent and not 20 percent as the taxable income itself were within the slab of 10 percent. The impugned awards thus stand modified accordingly.

7. Accepting the yearly income of the deceased at Rs.3,36,942/-(in MAC No.844 of 2015) if 10 percent of it is deducted towards income tax, the yearly income would reach to Rs.3,03,247/-, of which if 1/3rd is deducted towards personal expenses, the amount would come to Rs.2,02,165/-, which if multiplied applying the multiplier of 17, the compensation would reach to Rs.34,36,805/-. Thus, it is ordered that the claimants shall be entitled for Rs.34,36,805/- for loss of dependency. The claimants are also entitled for an additional compensation of Rs.60,000/- as awarded by the Tribunal making total compensation payable at Rs.34,96,805/- instead of Rs.20,53,420/-.

8. So far as Claim Case No.850 of 2015 is concerned, accepting the yearly income of the deceased at Rs.3,88,332/- if 10 percent of it is deducted towards income tax, the yearly income would reach to Rs.3,49,499/-, of which if 1/3rd is deducted towards personal expenses, the amount would come to Rs.2,32,999/-, which if multiplied applying the multiplier of 16, the compensation would reach to Rs.37,27,984/-. Thus, it is ordered that the claimants shall be entitled for Rs.37,27,984/- for loss of dependency. The claimants are also entitled for an additional compensation of Rs.60,000/- as

awarded by the Tribunal making total compensation payable at Rs.37,87,984/- instead of Rs.33,73,776/-.

9. The above enhanced amount of compensation in both the claim cases shall also carry interest at the same rate as awarded by the Tribunal.

10. Accordingly, both the appeals stand allowed and disposed of.

Sd/-
(P.Sam Koshy)
Judge

inder