NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MAC No. 1479 of 2018

1. Daduram Marar S/o Late Kairam, aged about 48 years.

2. Smt. Kesharbai W/o Daduram Marar, aged about 45 years.

3. Ku. Pushpa D/o Daduram Marar, aged about 5 years.

No. 3 is minor through his guardian father Daduram Marar,

All are R/o Village – Lilejhar, Thana/Tahsil- Charama, Distt- Kanker (C.G.).

---- Appellants

Versus

1. Palni P. S/o Pramal Alwa @ Parumai Alwa, aged about 40 years, R/o Kabdha Paliyam, Thana- Kabdha Paliyam, Distt.- Namakkal (Tamilnadu)

2. K. Kagannathan S/o Kalya Annan, aged about 48 Years, R/o 7/40, Akola Tupdayam, Thana- Kandampalyam, Tahsil- P. Ballur, Distt- namkkal (Tamilnadu).

3. Branch Manager, United India Insurance Company Ltd. Branch Office- Beside of Vidhayak Bhawan, Batena Para Chauk, Dhamtari, Distt.- Dhamtari (C.G.).

---- Respondents

For Appellant	: Shri Anil Gulati, Advocate
For Respondent No. 3	: Shri B. N. Nande, Advocate

Hon'ble Shri Justice Gautam Chourdiya
Judgment on Board

01.12.2018

1. This is claimants' appeal seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Uttar Bastar, Kanker (for short 'the Tribunal') in claim case No. 91/2017 vide award dated 16.07.2018.

2. Facts of the case, as per claim petition, are that on 16.10.2014 when Dinesh Kumar (since deceased) was travelling in the offending vehicle Truck bearing registration No. K.M.01 M.J.2747 and when he reached near village Gadhimalhara to rush, respondent No. 1- Palni P while driving the said offending vehicle rashly and negligently and dashed the same to the Electric pole, due to which, deceased was contacted with the live current wire of electricity and as a result of which he died. Chargesheet has already been filed against the respondent No. 1 (driver of the offending vehicle) under Section 304-A of the IPC in crime No. 178/2014. Respondent No. 2 is the owner of the offending vehicle whereas respondent No. 3 is the insurer of the offending vehicle. Respondent No.1 & 2 was the ex-parte before the Claims Tribunal and respondent No. 3- Insurance Company alongwith respondent No. 1 & 2 held liable to pay compensation.

3. As against compensation of Rs. 64,00,000/- claimed by unfortunate parents & sister of deceased- Dinesh Kumar, by filing claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short ‘MV Act’) for the death of deceased in the motor accident on 16.10.2014, the Tribunal awarded a total sum of Rs. 7,10,400/- as compensation along with interest @ 7.5 % per annum from the date of filing of claim petition till its actual payment.

4. Learned Tribunal, on a close scrutiny of the entire evidence led before it held that the accident has occurred due to rash and negligent driving of offending vehicle Truck bearing registration No. K.M.01 M.J.2747 by its respondent No. 1- Palni P; assessed and awarded

aforesaid amount of compensation to the appellants/claimants. There is no counter appeal filed by the Insurance Company to contest the matter.

5. Learned counsel appearing for the appellants/claimants would submit that the claimants filed this appeal for enhancement of compensation solely on the ground of income of the deceased as the income of the deceased has been considered by the Tribunal as Rs.4500/- but at that relevant time the minimum wages was more than 5,000/-, therefore, 5,000/- should be considered as income of the deceased for the purpose of computation of compensation and thereby enhanced the amount of compensation suitably.

6. On the other hand, learned counsel for respondent No. 3/Insurance Company submits that the Tribunal has considered all aspect of the claim petition and the amount awarded by the Claims Tribunal for the death of deceased- Dinesh Kumar is just and proper, which does not call for any interference in the instant appeal.

7. I have heard learned counsel appearing for the parties and perused the impugned award including the record of Claims Tribunal.

8. From perusal of record it is apparent that the deceased was a labour (Hammal) however, at the time of accident which occurred in the year of 2014, minimum wages as a labour was more than Rs. 5,000/- per month therefore, Rs. 5,000/- per month can be considered as the income of the deceased. Apart from the income of the deceased, remaining awarded amount regarding the conventional heads, multiplier deduction toward personal expences of deceased and future prospect are justified, therefore, keeping in view of Hon'ble Supreme Court's

Judgments in the matter of **National Insurance Co. Ltd. Vs. Pranay Sethi** reported in **(2017) 16 SCC 680 & Sarla Verma (Smt.) & Others V. Delhi Transport Corporation and anr. reported in 2009 (6) SCC121**, I propose to recompute the amount of compensation as under:-

Sl. No.	Heads	Calculation
01.	Income of the deceased	Rs.5000x12=Rs.60,000/- per annum
02.	40% of above to be added towards future prospects	Rs = 60,000+24,000./-= Rs. Rs.84,000/-
03.	1/2th deduction towards personal and living expenses of the deceased	Rs. 42,000/-.
04.	Multiplier of 18 to be applied	Rs,7,56,000/-
05	Towards incidental heads	Rs. 70,000/-
	Total Compensation	Rs.8,26,000/--

9. Since, the Tribunal has already awarded a sum of Rs. 7,10,400/- after deducting the same from the amount as calculated above, the claimant is held for an additional compensation of Rs. 1,15,600/-. This additional amount shall carry interest at the rate of 7.5% per annum from the date of claim application till its actual payment. The award is modified to the above extent. Rest of the conditions of the award shall remain intact.

Sd/-

(Gautam Chourdiya)
Judge

Amita