

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No.1577 of 2018**

1. Smt. Uttra Bai Sahu, wife of late Mukesh Sahu, aged about 27 years,
2. Ku. Kunti Sahu, daughter of late Mukesh Sahu, aged about 8 years,
3. Ku. Usha Sahu, daughter of late Mukesh Sahu, aged about 6 years,
4. Ku. Digeshwari Sahu, daughter of late Mukesh Sahu, aged about 4 years,

(The appellants No. 2 to 4 shall be deemed to be represented by their mother and next friend Smt. Uttra Bai Sahu)

5. Smt. Phulubai, wife of Bhagiram Sahu, aged about 50 years,
6. Bhagiram Sahu, son of late Jagdish Sahu, aged about 53 years,

All R/o village Jenjra, PO Surshabandha, P.S. Rajim, District Gariaband (C.G.).

Present Address- Mathpara Bajrang Chowk Raipur, Tahsil and District- Raipur (C.G.).

---- Appellants**Versus**

1. Krishna Singh Rajput, son of Ram Prasad Rajput, resident of village Dhawalpur, P.S. Mainpur, District- Gariaband (Chhattisgarh) (Driver of offending vehicle bearing registration C.G.04 JD3963)
2. Tuleshwar Kumar Rajput, son of Ram Kumar Rajput, resident of village and P.O. Dhawalpur, P.S. Mainpur, District- Gariaband (Chhattisgarh) (Owner of Offending vehicle bearing registration C.G. 04 JD 3963)
3. The Oriental Insurance Company Limited, through Divisional Manager, the Oriental Insurance Company Limited Kutchery Chowk, Jail Road, Raipur, District- Raipur (Chhattisgarh) (Insurer of offending vehicle bearing registration C.G. 04 JD 3963).

---- Respondents

For Appellants

: Shri C. R. Sahu, Advocate

For Respondent No.3 : Shri R. N. Pusty, Advocate.

Hon'ble Shri Justice Gautam Chourdiya
Judgment on Board

01.12.2018

1. This is claimants' appeal seeking enhancement of compensation awarded by the IIIrd Motor Accident Claim Tribunal, Raipur (for short 'the Tribunal') in claim case No. 06/2017 vide award dated 18th May, 2018.

2. Facts of the case leading to filing of the claim petition is that on the fateful day i.e on 25.11.2016 at about 09.00am Mukesh Kumar Sahu was going to Rajim by his motorcycle at that time respondent No.1 driver of offending vehicle bearing registration No. CG04JD/3963 while driving the vehicle rashly and negligently, dashed the motorcycle, as a result of which Mukesh Kumar Sahu succumbed to the injuries sustained by him in the said accident.

3. As against the compensation of Rs.29,79,000/- claimed by the unfortunate widow, children and parents of the deceased by filing claim petition under Section 166 of Motor Vehicles Act, 1988 (for short 'MV Act') for his death in the motor accident on 25.11.2016, the Tribunal awarded a total sum of Rs. 12,79,600/- as compensation along with interest @ 7.5 percent per annum from the date of application till its actual payment.

4. The Tribunal, on a close scrutiny of the evidence led, held : the accident had occurred due to rash and negligent driving

of offending vehicle bearing registration No. CG04JD/3963 by its driver respondent No. 1 Krishna Singh Rajput; Mukesh Kumar Sahu died on account of injuries sustained by him in the said accident; respondent No. 3/insurance company liable for payment of compensation to the claimants as it could not establish violation of policy conditions, and assessed and awarded aforesaid sum in favour of the claimants. There is no counter appeal filed by the Insurance Company

5. Learned counsel for the appellant/claimant submits that the learned Tribunal has fallen in error in assessing the income of the deceased as Rs. 6,000/- per month as the deceased was at the time of accident was vegetable vendor and his income should be considered as Rs. 8,000/- per month. He further submits that the Tribunal has wrongly assessed interest @ 7.5% per annum on the amount of compensation whereas it should be considered @ 12 % per annum.

6. On the other hand, learned counsel appearing for the respondent No. 3/Insurance Company would submit : according to judgment rendered by the Supreme Court in the matters of **National Insurance Co. Ltd. Vs. Pranay Sethi** reported in **(2017) 16 SCC 680** & **Sarla Verma (Smt.) & others V. Delhi Transport Corporation and another** reported in **2009 (6) SCC 121**, learned Tribunal while awarding the compensation to the claimants, has considered all the conven-

tional heads of compensation. He submits that there is no specific evidence adduced by the claimants regarding income of the deceased, therefore, as per minimum wages at the relevant time Rs. 6,000/- is an appropriate income assessed by the Tribunal, therefore, the amount of compensation awarded by the Tribunal is just and proper compensation, which does not call for any interference.

7. I have heard learned counsel appearing for both the parties and perused the impugned award.

8. A careful perusal of paragraphs 27 to 31 of the award, it appears that Tribunal has awarded the compensation on all the legally permissible heads and the interest @ 7.5% per annum awarded by the Tribunal is just & proper in the facts & circumstances of the case, which does not call for any interference in the instant appeal; so far as income of the deceased as Rs. 6,000/- per month is concerned, as per minimum wages, it is also just & proper, which also does not call for any interference. Thus, there is no scope of enhancement in the amount of compensation awarded by the Tribunal.

9. No other points have been raised.

10. For the reasons mentioned hereinabove, the appeal fails and is accordingly dismissed. No order as to costs.

Sd/-

(Gautam Chourdiya)
Judge

