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HIGH COURT OF CHHATTISGARH, BILASPUR

Miscellaneous Appeal (Civil) No. 666 of 2014

- Sri Ram General Insurance Company Limited Through- Upper Office Address-10003 E-8 E.P.I.P. Ricco, Industrial Area, Sitapur, Jaipur – 302022 Rajasthan, Address- Fourth Floor Maruti Height, G.E. Road Raipur (C.G.)

---- Appellant/Insurer

Versus

1. Smt. Rajmet Bai W/o Late Shiv Prasad Singh, Aged about 40 near about
2. Harend Singh S/o Late Shiv Prasad Singh, Aged about 20 years

   (Claimants)

   Both Resident- Archana Vihar D-15 Besides Balram Takies Gandhi Nagar Bilaspur, Tahsil and District Bilaspur (C.G.)
3. Prabal Kumar Panika S/o Ram @ Devnath Panika, Aged about 30 years, Gram Resident & Post Malga, Tahsil and Thana Bhatgao, District Sarguja (C.G.)

   (Driver of Bus No. C.G.15/A/6785)
4. Israr Khan S/o Niyajuddin Khan, Aged about 37 years, Resident Gram Bajarpara- Jahari Mor, Bhatgaoh, Ambikapur Tahsil and Thana Bhatgaoh, District Sarguja (C.G.)

   (Owner of Bus No. C.G.15/A/6785)

---- Respondents

For Appellant	:	Shri Deepak Gupta, Advocate
For Respondents 1 & 2	:	Shri Anand Kesharwani, Advocate
For Respondent No.3	:	None
For Respondent No. 4	:	Ms. Sareena Khan, Advocate

Hon'ble Shri Justice Gautam Chourdiya, J

Judgment on Board

11.02.2019

1. Being aggrieved with the award dated 02.04.2014 passed in Claim Case No. 31 of 2013 by the Second Additional Member, Bilaspur (C.G.) of the First Additional Motor Accident Claims Tribunal, the Appellant/Insurance Company has preferred this appeal under Section 173 of the Motor Vehicles Act, 1988 challenging the rate of interest on the compensation amount and the quantum.

2. The Claimants/Respondents 1 and 2, unfortunate wife & son of deceased- Shiv Prasad, claimed compensation of Rs.65,00,000/- by filing a claim petition under Section 166 of the Motor Vehicles Act for death of deceased- Shiv Prasad in the motor accident.

3. Respondent No.3/non-applicant No.1 is driver of the offending vehicle Bus bearing No. CG-15/A/6785, owned by Respondent No.4/non-applicant No.2 and insured with Appellant/non-applicant No.3.

4. Facts of the case, in brief, are that on 27.01.2013 when deceased-Shivprasad was going from Tilsiwa via Surajpur route to Gangikot by his motorcycle, Respondent No.3/non-applicant No.1- Prabal Kumar, driver of the offending vehicle, driving the said vehicle in a rash and negligent manner dashed motorcycle of Shiv Prasad, as a result thereof, he sustained grievous injuries. Due to the said accident, Shiv Prasad admitted in Ambikapur Hospital, thereafter he was referred to KIMS Hospital, Bilaspur. During treatment, Shiv Prasad died on 10.02.2013.

5. The learned Tribunal, in the impugned award, has awarded a compensation of Rs.71,98,346/- in favour of the Claimants/Respondents 1 and 2 with interest @ 7% per annum from the date of filing of the application till realization and fastened the liability upon the Appellant/Insurance Company along with driver and owner/Respondents 3 & 4 jointly and severally to pay compensation.

6. Learned counsel for the Appellant/Insurance Company submits that the income of the deceased has wrongly been considered by the Tribunal as Rs.5,82,968/- per annum which is on the higher side and also award of interest @ 7% per annum on the compensation amount is liable to be reduced.

7. On the other hand, learned counsel for the Claimants/Respondents 1 and 2 supports the impugned award and submits that the Tribunal considering all the relevant aspects of the matters has rightly awarded compensation and there is no scope for reduction of compensation amount.

8. Heard the learned counsel appearing for the Appellant/Insurance Company as also the learned counsel for the Claimants/Respondents and perused the impugned award including the records of the Claims Tribunal.

9. In the present case, as per postmortem report (Ex.-P/5), deceased- Shiv

Prasad was aged about 45 years. He was permanent employee in S.E.C.L. and was working as Shearer Operator and was getting Rs.73,365/- per month. As per salary slips (Ex.-P/7 & Ex.-P/8) and Ex.-P/9 -Form-16 for the financial year 2012-2013, the Tribunal has assessed the income of deceased as Rs.6,43,410/- per annum and after deducting the amount of Rs.60,442/- towards income tax from Rs.6,43,410/- i.e. annual income of the deceased worked out to Rs.5,82,968/-.

10. Also looking to the age of the deceased, the Tribunal has added 30% future prospects to the annual income deceased, the amount worked out to Rs.7,57,858/- and after deducting 1/3rd toward personal, the annual dependency comes to Rs.5,05,239/-. By multiplying the annual dependency of Rs.5,05,239 with the multiplier of 14, the compensation was worked out to Rs.70,73,346/-. By awarding further sum of Rs.1,00,000/- for loss of consortium & loss of estate and Rs.25,000/- for funeral expensed, the Tribunal awarded a total sum of Rs.71,98,346/-. No any evidence adduce by the Appellant/Insurance Company which could show that assessment of income of the deceased by the Tribunal is against the material available on record. Therefore, this Court is of the opinion that there is no scope for reduction of the compensation awarded by the Tribunal either on account of assessment of the income of the deceased or claimants' dependency by the Tribunal or the multiplier selected. Likewise, in the facts and circumstances of the case, the rate of interest @ 7% per annum ordered by the Tribunal in this case also appears to be just and proper.

11. In the result, the appeal, filed by the Appellant/Insurance Company, being without any substance is liable to be dismissed and is accordingly dismissed.

12. No order as to costs.

Sd/-

(Gautam Chourdiya)
Judge

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