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HIGH COURT OF CHHATTISGARH, BILASPUR

Miscellaneous Appeal (Civil) No. 805 of 2014

- Sri Ram General Insurance Company Limited E.B.E.P.I.P. RIICO Industrial Area Sitapura Jaipur 302022 Rajasthan

---- Appellant/Non-applicant No.3

Versus

1. Duj Bai W/o Late Kaleshwar Singh Kawar Aged about 23 years
2. Ku. Hemanshe, daughter of Late Kaleshwar Singh Kanwar, aged about 1 year, through legal guardian mother Duj Bai wife of late Kaleshwar Singh Kanwar, aged about 23 years
3. Shiv Singh Kawar S/o Late Phool Singh Kawar Aged about 50 years
4. Milautin Bai S/o Late Shiv Singh Kawar Aged about 45 years
All Resident near Jora Talab Sarkanda Thana Sarkanda Tahsil & District Bilaspur (C.G.) **(Claimants)**
5. Rajkumar Patel S/o Sarju Ram Patel Aged about 23 years
Resident Marvarani, Chauk Urga Tahsil & District Korba (C.G.)
(Non-applicant No.1/Driver of Truck No. C.G.-12-S-1308)
6. Moh. Kalamuddin S/o Late Pir Mohammad Resident S K Construction Ajaz Nagar Balco Thana Balco Tahsil and District Korba (C.G.)
(Non-applicant No.2/Owner of Truck No. C.g.-12-S-1308)

---- Respondents

For Appellant	:	Shri Deepak Gupta, Advocate
For Respondents	:	None

Hon'ble Shri Justice Gautam Chourdiya, J

Judgment on Board

21.02.2019

1. Heard on I.A. No. 01, application for condonation of delay of 93 days in filing the appeal.
2. For the reasons mentioned in the said application, which is duly supported by affidavit, delay in filing the appeal is hereby condoned.
3. Heard on admission.
4. This appeal is by the Insurance Company under Section 173 of the Motor Vehicles Act, 1988 against the award dated 13.01.2014 passed by the Second Additional Member to the Court of the First Additional Motor Accident Claims Tribunal, Bilaspur (C.G.) in Claim Case No. 22 of 2012 awarding total compensation of Rs.9,13,500/- with interest @ 7% per annum from the date of application till realization, fastening liability on the non-applicants jointly and severally.

5. Facts of the case, in brief, are that on 02.05.2012 while deceased Kaleshwar was going to his village Rangole from village Dhangaon by motorcycle bearing registration No. C.G.-12/ZE/4986, non-applicant no.1 Rajkumar Patel by driving the vehicle- Hiva Truck bearing registration No. CG-12/S/1308 in a rash and negligent manner, dashed the motorcycle. As a result thereof, Kaleshwar sustained grievous injuries on various parts of the body and during treatment in Korba Hospital, he died.

6. Learned counsel for the Appellant submits that income of the deceased as Rs.4,500/- per month considered by the Tribunal is on the higher side and the amount awarded under the conventional heads also being on the higher side deserves to be reduced.

7. Heard learned counsel for the Appellant and perused the material available on record.

8. As regards the quantum of compensation, the Tribunal has assessed the age of the deceased as 30 years on the basis of documents produced by the Claimants and the income has been assessed as per minimum wages prevalent at that time as Rs.4,500/-. Further, the Tribunal keeping in view the decision of the Hon'ble Supreme Court in **Smt. Sarla Verma and others Vs. Delhi Transport Corporation and another, (2009) 6 SCC 121**, applied the multiplier of 17, made 1/4th deduction towards personal and living expenses, which cannot be faulted with. So far as grant of amount i.e. Rs.2,25,000/- under the conventional heads is concerned, it cannot be said to be higher side because the Tribunal has not granted future prospects to the Claimants.

9. In the result, the appeal filed by the Insurance Company being without any substance deserves to be dismissed at the admission stage itself and is, accordingly, dismissed.

Sd/-
(Gautam Chourdiya)
Judge