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HIGH COURT OF CHHATTISGARH, BILASPUR

Miscellaneous Appeal (Civil) No. 1960 of 2018

- Chaitram Sahu S/o Late Baburam Sahu, aged about 70 years, R/o Village Parsoudi Thana Ratanpur Tahsil and District Bilaspur (Chhattisgarh)

---- Appellant/Claimant

Versus

1. Manilal Yadav S/o Late Shri Vansh Gopal Yadav, aged about 49 years, R/o Village Sahargarh, Thana Vadsagar Tahsil Byohari, District Shahdol (M.P.) (Driver of the offending vehicle Bus No. C.G.10/G./1254)
2. Ramesh Kumar Yadav S/o K.D. Singh Yadav, aged about 44 years, R/o-A/29, Priyadarshani Nagar Bilaspur, Thana Civil Line Tahsil and District Bilaspur (C.G.) (Owner of the offending vehicle Bus No. C.G.10/G./1254)
3. Branch Manager, The Oriental Insurance Company Limited, Branch Office, Rama Tred Center, In front of Rajeev Plaza Old Bus Stand Road Bilaspur Tahsil and District Bilaspur (Chhattisgarh) (Insurer of the offending vehicle Bus No. C.G.10/G./1254)

---- Respondents/Non-applicants

For Appellant	:	Shri A.L. Singroul, Advocate
For Respondents 1 & 2	:	None
For Respondent No.3	:	Shri Raj Awasthi, Advocate

Hon'ble Shri Justice Gautam Chourdiya, J

Judgment on Board

15.01.2019

Since Respondent No.3 is represented through its counsel, I.A. No. 1 of 2018 application for condonation of delay in payment of process fee stands disposed of.

With the consent of the learned counsel for the parties, the appeal is heard finally.

This appeal is by the Claimant/Appellant against the award dated 04.10.2018 passed by the Seventh Additional Motor Accident Claims Tribunal, Bilaspur (C.G.) in Claim Case No. 128 of 2018 awarding total compensation of Rs.1,90,000/- with interest @ 8% per annum from the date of application till

realization, fastening the liability on the Insurance Company/Respondent No.3.

2. As per claim petition, on 26.11.2017 deceased- Rammati, aged about 70 years earning Rs.15,000/- per month by doing tailoring work, died in the motor vehicular accident caused due to rash and negligent driving of the vehicle bus bearing registration No. CG-10/G/1254 by Respondent No.1-Manilal Yadav.

3. On claim petition being filed by the Claimant/Appellant under Section 166 of the Motor Vehicle Act, the Tribunal considering the evidence led by both the parties passed an award as mentioned above.

4. Learned counsel for the Appellant submits that the learned claims Tribunal has committed grave legal error in disbelieving the evidence of witnesses of the Claimant adduced in support of his pleadings. He further submits that the Tribunal has erred in assessing the monthly income of the deceased as Rs.3,000/-, whereas she was earning Rs.15,000/- per month, also not granted any amount towards future prospects and wrongly applied multiplier of 5 in place of 9, therefore, entire amount of compensation deserves to be enhanced suitably. In support of above contention, reliance has been placed on the decisions of the Hon'ble Supreme Court in the matters of Smt. Sarla Verma and others Vs. Delhi Transport Corporation and another, (2009) 6 SCC 121; National Insurance Co. Ltd. Vs. Pranay Sethi, (2017) 16 SCC 680; Ashok Kumar Vs. Sanjay Kumar and others, (2014) 5 SCC 330 and Neeta W/o Kallappa Kadoand Vs. Divisional Manager, Maharashtra State Road Transport Corporation, (2015) 3 SCC 590.

5. On the other hand, learned counsel for the Insurance Company/Respondent No.3 supports the impugned awarded and submits that the Tribunal considering all the relevant aspects of the matters has rightly awarded compensation which needs no interference by this Court.

6. Heard learned counsel for the parties and perused the material available on record.

7. Considering the facts and circumstances of the case and on perusal of the award including the records of the Tribunal, it appears that the learned Tribunal has

rightly awarded compensation amount of Rs.1,90,000/- to the Appellant/Claimant on account of death of his wife in a vehicular accident. Further, looking to the age of the Claimant/Appellant without expressing any opinion on the merit of the case, this Court is of the view that the interest of the parties will be safeguarded by awarding lump-sum additional compensation to the tune of Rs.90,000/-.

8. Accordingly, the present appeal is partly allowed and the Appellant/Claimant is hereby awarded additional compensation of Rs.90,000/- alongwith interest @ 8% per annum from the date of application till the actual payment. However, rest of the conditions of the impugned award shall remain intact.

9. No order as to costs.

Sd/-

(Gautam Chourdiya)
Judge