2024:BHC-NAG:9978

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

FIRST APPEAL NO.1871 OF 2019

APPELLANT (Original R. No.3) (On R. A.)	:		**The Oriental Insurance Company Ltd** Branch Dhanraj Plaza, Chandrapur Tah and Dist. Chandrapur. Presently at : Through its 'Claims T. P. Hub', 15 A.D. Complex, Mount Road Extension, Sadar, Nagpur.
			..VERSUS..
RESPONDENTS (ON R.A.) (Orig. Petitioners)	:	1	**Smt. Poonam Wd/o Jitendra Mankar** Aged about 44 Years, Occ. Household
		2	**Swayam S/o Jitendra Mankar,** Aged about 11 years, Occ. Education Through Respondent No.1 Both R/o: Indira Nagar, Qrt. No.196, At Ghuggus, Tah and Dist. Chandrapur.
(Orig. R. No.1)		3	**Sadaiah S/o Mondi Kalaveni**, Aged about --, Occ. Transporter
(Orig. R. No.2)		4	**Bhaskar S/o Mondi Kalaveni**, Aged about --, Occu. Driver, Both R/o : Ward No.6, Sai Nagar, Ghugus Tah. and Dist. Chandrapur.

Mr L. Limaye, Advocate for Appellant.
Ms R. K. Swami, Adv. h/f Mr R. M. Tahaliyani, Advocate for Respondent Nos.1 and 2.

CORAM : M. W. CHANDWANI, J.

DATED : 29th AUGUST, 2024.

TAMBE

ORAL JUDGMENT

1. Heard.

2. The only point raised in this appeal filed under Section 173 of the Motor Vehicles Act, 1988 is that the Motor Accident Claims Tribunal, Chandrapur, has granted addition of future prospects at the rate of 30% of the assessed income.

3. The contention is that the deceased was not a permanent employee, therefore, the Tribunal ought to have granted addition of future prospects at the rate of 25% of the assessed income. Another ground canvased by the learned counsel for the appellant is that rate of interest @ 9% per annum on the compensation amount from the date of petition till realization of the amount is on the higher side. It is claimed that the Tribunal ought to have granted interest @ 6% per annum.

4. It appears that the Tribunal has assessed the income of the deceased from his salary slip at Rs.4,42,929/- as yearly

income and the Tribunal has also granted addition of future prospects at the rate of 30%, as the deceased was between the age group of 40 to 50 years. Needless to mention that according to the decision of the Supreme Court in the case of ***National Insurance Co. Ltd. vs. Pranay Sethi and others***, ***2017 SCC OnLine 1270***, if the employee is a permanent employee between the age group of 40 to 50 years, then an addition of 30% towards future prospects shall be done.

5. The material available on record goes to suggest that the deceased was a permanent employee in the Western Coalfields Limited (WCL) since the year 1998 and the record also suggests that the service book of the deceased was produced before the Tribunal. This material is sufficient to hold that the deceased was a permanent employee in WCL. Therefore, I do not see any substance in the submission of learned counsel for the appellant that the addition to future prospects is required to be reduced to 25%.

6. Turning to the grant of interest on compensation

amount @ 9% by the Tribunal, judicial notice can be taken that, from the year 2012 onwards, the rate of interest of Nationalized Banks is on a reducing trend. Rather, there was a fluctuation in the rate of interest during the said period from 9% to 6%. Considering the fact that the petition is filed in the year 2014 and has been disposed of in the year 2018, in my view, interest @ 7% per annum on the compensation granted by the Tribunal from the date of petition till realization of the amount would meet the ends of justice. To that extent, the appeal could be allowed. Hence, the following order :

i) The appeal is partly allowed.

ii) The rate of interest on delayed payment is reduced from 9% to 7% per annum on the compensation amount from the date of petition till realization of the amount.

7. Rest of the impugned judgment and award of the Tribunal shall remain intact.

(M. W. CHANDWANI, J.)

TAMBE