

HIGH COURT OF CHHATTISGARH AT BILASPUR

DIVISION BENCH

CORAM:

HON'BLE SHRI RAJEEV GUPTA, C.J. & HON'BLE SHRI SUNIL KUMAR SINHA, J.

Misc Appeal No.522/2006

Appellants Claimants

- 1 Tarun Das Son of Shri Guhri Dhritlahare, aged about 56 years
- 2 Geeta Bai Wife of Shri Tarun Das, aged about 50 years

Both are residents of Tilda Bandha, Police Station Suhela, District Raipur (CG)

<u>Versus</u>

Respondents

1. Bhuneshwar Son of Shri Somdas Manikpuri, aged about 21 years, Resident of Village Guma, Police Station Suhela, District Raipur (CG)

Driver of Vehicle

2. Shekh Shabbir Son of Shekh Munir, Mohdapara, Raipur, District Raipur (CG)

Owner of Vehicle

3. The New India Insurance Company Limited, Branch RDA Building, Bajrang Market, Raipur District Raipur (CG)

Insurer

Miscellaneous Appeal under Section 173 of the Motor Vehicle Act, 1988

<u>Present</u>: Shri PP Sahu, counsel for the appellants.

Shri Saurabh Sharma, counsel for respondent No.3.







The following order of the Court was passed by Rajeev Gupta, C.J.

This is claimants' appeal for enhancement of the compensation awarded by the First Additional Motor Accident Claims Tribunal, Baloda Bazar, District Raipur (CG) (for short, "the Tribunal") vide award dated 31.08.2006 passed in Claim Case No.98/2006.

- 2) As against the compensation of Rs.14,14,000/- claimed by the claimants, unfortunate parents of deceased Santosh by filing a claim petition under Section 166 of the Motor Vehicles Act for his death in the motor accident on 21.06.2005, the Tribunal awarded a total sum of Rs.1,90,000/- as compensation along with interest @ 7% per annum from the date of filing of the claim petition till the date of actual payment.
- 3) Shri PP Sahu, learned counsel for the appellants vehemently argued that the Tribunal has erred in not accepting the claimants' evidence about the income of the deceased and in assessing his income at Rs.1,500/- per month and Rs.18,000/- per annum only and in awarding low compensation of Rs.1,90,000/- only.
- 4) Shri Saurabh Sharma, learned counsel for respondent No.3
 The New India Insurance Company on the other hand submitted that the Tribunal has been quite liberal in awarding substantial compensation of Rs.1,90,000/- to the claimants.





- The claimants pleaded that their son Santosh used to earn Rs.5,000/- per month as bus cleaner. The Tribunal assessed the income of the deceased at Rs.1,500/- per month on its own estimate; by deducting Rs.500/- towards personal expenses of the deceased, the claimants' dependency was assessed at Rs.1,000/- per month and Rs.12,000/- per annum; by multiplying the annual dependency of Rs.12,000/- with the multiplier of 15, the compensation was worked out to Rs.1,80,000/-; by awarding further sum of Rs.10,000/- under other heads, the Tribunal awarded total sum of Rs.1,90,000/- as compensation to the claimants.
- 6) Even assuming the income of the deceased at Rs.3,000/- per month and Rs.36,000/- per annum on the basis of the Notional Income in the year 2005; by deducting 50% of Rs.36,000/- towards the personal expenses of the deceased, the claimants' dependency works out to Rs.18,000/-; by multiplying the annual dependency of Rs.18,000/- with the multiplier of 10 in view of the dictum of the Apex Court in the case of **Municipal Corporation of Greater**Bombay Vs Laxman lyer and another reported in (2003) 8 SCC 731, the compensation would work out to Rs.1,80,000/-; by adding further sum of Rs.10,000/- awarded by the Tribunal under other heads, the total compensation would work out to Rs.1,90,000/-; the same amount which has been awarded by the Tribunal as compensation to the claimants.
- 7) We, therefore, do not find any scope for enhancement of the compensation awarded by the Tribunal, either on account of the





assessment of the income of the deceased and the claimants' dependency, or the multiplier selected.

8) The appeal filed by the claimants for enhancement of the compensation, therefore, is liable to be dismissed and is hereby dismissed.

Sd/-Chief Justice Sd/-Sunil Kumar Sinha Judge

padma