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HIGH COURT OF CHHATTISGARH AT BILASPUR

DIVISION BENCH

CORAM: HON'BLE SHRI RAJEEV GUPTA, C.J.
HON'BLE SHRI RANGNATH CHANDRAKAR, J

M.A.No. 812 of 2003

Appellants
Claimants

1. Smt Sarita Choubey, S/o Vishnu Choubey Aged 51 years, house wife
2. Vishnu Choubey, S/o Krishna Prasad Choubey, Aged 31 years, Both are R/o Shanti Nagar, Rajnandgaon, Tah & Distt - Rajnandgaon (CG)

Versus

Respondents
Non-Claimants

1. Sukh Dave Sahu, S/o Phool Singh Sahu, R/o Ganganagar, Khamtarai, Raipur, Distt - Raipur (CG)
2. Rakesh Kumar Bhediya S/o Jhumuklal Bhediya, R/o Akash Gas Service, Devendra Nagar, Raipur CG
3. The Oriental Insurance Co. Ltd., Through Divisional Manager, Divisional Office No.II, Life Insurance Marg, Pandari, Raipur (CG)

Miscellaneous Appeal u/s173 of the Motor Vehicles Act. 1988

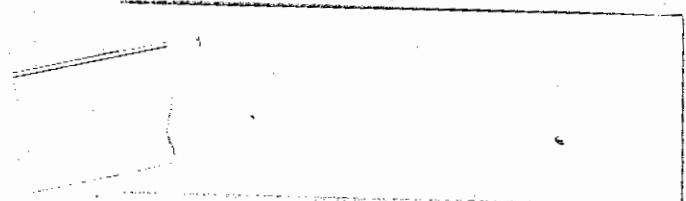
Present : Shri Aditya Khare counsel for the appellants.
None for the respondents though served.

ORDER

(30th July, 2010)

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 Motor Accident Claims Tribunal,



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Rajnandgaon (for short, 'the Tribunal') vide award dated 07.07.2003, passed in Claim Case No.65/2002.

2) As against the compensation of Rs.10,50,000/- claimed by the appellants / claimants, unfortunate parents of deceased girl Kum. Tripti, by filing a claim petition under Section 166 of the Motor Vehicles Act for her death in the motor accident on 04.02.2002, the Tribunal awarded a total sum of Rs.64,500/- as compensation along with interest @ 9% per annum from the date of filing of the claim petition till the date of actual payment.

3) Shri Aditya Khare, learned counsel for the appellants vehemently argued that the Tribunal has erred in awarding low compensation of Rs.64,500/- only.

4) The Apex Court while considering as to what would be the just and proper compensation for the death of a child aged about 7 years in the case of **Oriental Insurance Co. Ltd. V. Syed Ibrahim and others** reported in 2007 (4) T.A.C. 385 (S.C.) observed in paras 9 & 10 :

"9. This Court in Lata Wadhwa while computing compensation made distinction between the deceased children falling within the age group of 5 to 10 years and age group of 10 to 15 years.

10. In cases of young children of tender age, in view of uncertainties about, neither their income at the time of death nor the prospects of the future increase in their income nor chances of advancement of their career are capable of proper determination on estimated basis. The reason is that at such an early age, the

uncertainties in regard to their academic pursuits, achievements in career and thereafter advancement in life are so many that nothing can be assumed with reasonable certainty. Therefore, neither is the income of the deceased child capable of assessment on estimated basis nor is the financial loss suffered by the parents capable of mathematical computation."

The Apex Court in the case of **Oriental Insurance Co. Ltd.**

V. Syed Ibrahim and others (supra), held that the compensation of Rs.51,500/- was just and proper compensation for the death of a child aged about seven years.

5) The compensation of Rs.64,500/- awarded by the Tribunal when examined in the context of the above quoted dictum of the Apex Court in the case of **Oriental Insurance Co. Ltd. V. Syed Ibrahim and others** (supra) and the fact that the appellants' daughter Kum.Tripti was aged about three years only on the date of the accident, we are satisfied, is just and proper compensation and does not call for any enhancement in this appeal.

6) We, therefore, do not find any scope for enhancement of the compensation awarded by the Tribunal.

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

8) No order as to costs.

Sd/-
Chief Justice

Sd/-
R.N. Chandrakar
Judge