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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.

**Misc. Appeal (C) No. 796 of 2010**

**Appellants**  
**Claimants**

- 1 Gajanan Prasad Modi s/o Genda Lal Modi, aged about 55 years.
- 2 Smt. Sakuntla Devi w/o Gajanan Prasad Modi, aged about 50 years,

Both are r/o village Kudekela, tahsil Dharamjaigarh, district Raigarh C.G.

**VERSUS**

**Respondents**  
**Non-applicants**

- 1 Laxmi Narayan s/o Shyam Lal aged about 30 years, occupation Bus Driver, r/o village Munund, tahsil Dharamjaigarh, district : Raigarh C.G.  
(Driver of the offending vehicle Rahul Minibus No. C.G. 13A/5706)
- 2 Baljeet Singh s/o Shri Gyani Ram, aged about 50 years, r/o village Kapu, tahsil Dharamjaigarh, district Raigarh C.G.  
(Owner of the offending vehicle Rahul Minibus No. C.G. 13A/5706)
- 3 The Oriental Insurance company Limited, through Branch Manager, Branch Office, Itwari Bazar, Raigarh, district Raigarh C.G.  
(Insurer of the offending vehicle Rahul Minibus No. C.G. 13A/5706)

**Memo of appeal under Section 173 of Motor Vehicle Act**

**Present:** Shri P.K. Patel, counsel for the appellants.  
Shri Ratan Pusty, counsel for respondent No.3.



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**ORDER**  
**(31<sup>st</sup> October, 2011)**

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

The unfortunate parents of deceased Murari Lal Modi are the appellants before us in this appeal for enhancement of the compensation awarded by the Motor Accidents Claims Tribunal, Raigarh (for short 'the Tribunal') vide award dated 08.03.2010, passed in Claim Case No.55/2008.

2) As against the compensation of Rs.31,20,000/- claimed by the appellants/ claimants, unfortunate parents of deceased Murari Lal Modi, by filing a claim petition under Section 166 of the Motor Vehicles Act, for his death in the motor accident on 22.01.2008, the Tribunal awarded a total sum of Rs.1,70,000/- as compensation along with interest @ 8% per annum from the date of filing of the claim petition till the date of actual payment.

3) The Tribunal on a close scrutiny of the entire evidence led before it held that claimants' son Murari Lal Modi died on account of the injuries sustained by him in the motor accident on 22.01.2008; the accident occurred due to rash and negligent driving of the driver of the offending vehicle Minibus bearing registration No.CG-13A/ 5706; as the above offending vehicle Minibus, on the date of the accident, was insured with the Oriental Insurance Company Limited and the Insurance Company could

not establish any breach of the policy conditions, the Insurance Company was liable to pay the compensation to the claimants.

4) As the respondents have not filed any appeal against the award, the above findings recorded by the Tribunal have now attained finality.

5) The Tribunal assessed the income of the deceased at Rs.4,000/- per month and Rs.48,000/- per annum. By deducting  $\frac{1}{3}^{\text{rd}}$  of Rs.48,000/- towards the personal expenses of the deceased, the claimants' dependency was assessed at Rs.32,000/- per annum. By multiplying the annual dependency of Rs.32,000/- with the multiplier of 5, the compensation was worked out to Rs.1,60,000/-. By awarding further sum of Rs.10,000/- under other heads, the Tribunal awarded a total sum of Rs.1,70,000/- as compensation to the claimants for the death of their son Murari Lal Modi in the motor accident. The Tribunal further directed payment of interest on the above amount of compensation of Rs.1,70,000/- @ 8% per annum from the date of filing of the claim petition till the date of actual payment.

6) Shri P.K. Patel, learned counsel for the appellants submitted that, though the Tribunal has rightly assessed the income of the deceased at Rs.48,000/- per annum, it has erred in selecting the lower multiplier of 5; and in awarding low compensation of Rs.1,70,000/- only.

7) Shri Ratan Pusty, learned counsel for respondent No.3, the Oriental Insurance Company Limited, on the other hand, contended that the compensation of Rs.1,70,000/- awarded by

the Tribunal cannot be termed as inadequate so as to warrant enhancement in this appeal.

8) In a motor accident claim case what is important is that the compensation to be awarded by the Courts/Tribunal should be just and proper compensation in the facts and circumstances of the case. It should neither be a meager amount of compensation nor a bonanza.

9) Now, we shall examine as to whether the compensation of Rs.1,70,000/- awarded by the Tribunal is just and proper compensation in the facts and circumstances of the present case.

10) Though learned counsel for the appellants has not challenged the assessment of the income of the deceased by the Tribunal at Rs.48,000/- per annum, for our satisfaction, we have examined the entire evidence led by the claimants about the income of the deceased including the copy of the income-tax return of the deceased and we are satisfied that the Tribunal has rightly assessed the income of the deceased at Rs.48,000/- per annum.

11) As deceased Murari Lal Modi was unmarried on the date of the accident and the claimants are his parents, we deem it proper to deduct 50% of the income of the deceased towards his personal expenses in view of the dicta of the Apex Court in the cases of **Syed Basheer Ahamed and others Versus Mohammed Jameel and another** reported in (2009) 2 Supreme Court Cases 225 and **Sarla Verma (Smt) and Others Versus Delhi Transport Corporation and another**, reported in (2009) 6

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**SCC 121.** The claimants' dependency, therefore, is assessed at Rs.24,000/- per annum by deducting 50% of Rs.48,000/- towards the personal expenses of the deceased.

12) The multiplier of 5 selected by the Tribunal is certainly on the lower side and requires reconsideration.

13) The Apex Court in a recent dictum in the case of **National Insurance Company Limited Vs. Shyam Singh and Others**, reported in (2011) 7 SCC -65 has held the multiplier of 8 to be appropriate in the said case where the deceased was aged about 19 years and was unmarried on the date of the accident and the claimants were his parents, aged about 56 years and 55 years. In our opinion, in the present case too multiplier of 8 would be appropriate.

14) By multiplying the annual dependency of Rs.24,000/- with the multiplier of 8 the compensation works out to Rs.1,92,000/-. The claimants are further entitled to receive Rs.5,000/- towards funeral expenses and Rs.5,000/- for loss of estate. The claimants, thus, become entitled to receive a total sum of Rs.2,02,000/- as compensation for the death of their son Murari Lal Modi in the motor accident.

15) The claimants are awarded further sum of Rs.3,000/- towards quantified amount of interest on the enhanced amount of compensation of Rs.32,000/-.

16) For the foregoing reasons, the appeal filed by the appellants/ claimants for enhancement of the compensation is allowed in part. The compensation of Rs.1,70,000/- awarded by

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the Tribunal is enhanced to Rs.2,02,000/- with further quantified amount of interest of Rs.3,000/- on the enhanced amount of compensation of Rs.32,000/-.

17) Respondent No.3 the Oriental Insurance Company Limited is granted three months' time for depositing the total sum of Rs.35,000/- (Rupees thirty five thousand only) (Rs.32,000/- towards enhanced amount of compensation + Rs.3,000/- towards quantified amount of interest on the enhanced amount of compensation of Rs.32,000/-) before the concerning Claims Tribunal.

18) No order as to costs.

**Sd/-  
Chief Justice**

**Sd/-  
R.N. Chandrakar  
Judge**

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