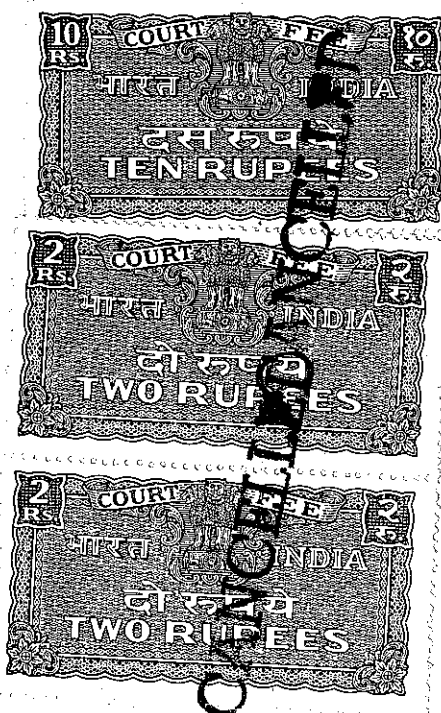


(3) *Chal*

IN THE HIGH COURT OF CHHATTISGARH JUDICATURE AT BILASPUR (C.G.)

MISC. APPEAL NO. 115 OF 2003

APPELLANTS



1. Smt. Latagiri Goswami, aged about 20 years, W/o - Late Shri Ajay Giri,

2. Hitesh, aged about 1/2 years
S/o Late- Shri- Ajay Giri Goswami
miner, Through - Mother Smt. Latagiri
Goswami W/o Late, Shri- Ajay Giri

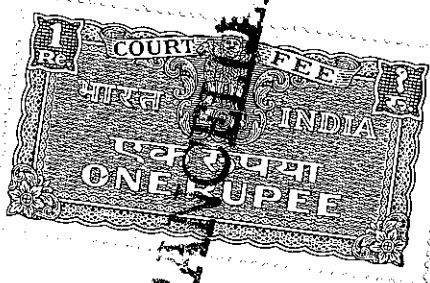
deleted as per Co. dt. 30.9.13. R/S Patel
Bodhan Giri, aged about 65 years
S/o Shri Ram Giri Goswami,

4. Smt. Ummila, aged about 60 years,
W/o Shri Boshan Giri Goswami,

All appellants resident of Village-
Marod, tehsil - Kurud, Dist- Dhamatari.
(Chhattisgarh)

VERSUS

RESPONDENTS



R/S
M.S.Sapana Agency Motikunj, Raipur
Road, Dhamatari, Dist. Dhamatari (C.G.)
(Owner of Metador No. 23 D. 4682)

R/S
2. The Oriental Insurance, Company
limited, Near Adarsh Bal Mandir,
Dhamatari, Dist. Dhamatari (C.G.)

R/S
Kalyan Das S/o Shri Brindavan Das
resident of village/Post - Abhanpur
Dist. Raipur. (C.G.)
(Owner of J eep No. M.P.23 T.0384)

P. R. No. 229/03
Presented by Shri. R.S. Patel
date 31.01.23

MISE APPEAL UNDER SECTION 173 OF MOTOR VEHICLE ACT, 1988.



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HIGH COURT OF CHHATTISGARH AT BILASPUR

Misc. Appeal No. 115 of 2003

APPELLANTS

- 1 Smt. Latagiri Goswami
- 2 Hitesh
- 3 Bodhan Giri (died and deleted)
- 4 Smt. Urmila

VERSUS

RESPONDENTS :

- 1 M.S. Sapana Agency Motikunj
- 2 The Oriental Insurance Company Limited
- 3 Kalyan Das

[Misc. Appeal under Section 173 of the Motor Vehicles Act, 1988.]

Present:

Mr. R.S. Patel, Advocate with Mrs. Kalawati Patel, Advocate for the appellants.
None for the respondent No.1
Mr. A. K. Athaley, Advocate for the respondent No.2
Mr. Raghvendra Pradhan, Advocate with Mr. Shikhar Sharma, Advocate for the respondent No.3

SB: Hon'ble Mr. T.P. Sharma, J.

ORDER
(Passed on 30.08.2013)

1. By this miscellaneous appeal under Section 173 of the Motor Vehicles Act, 1988 (for short 'the Act') appellants have prayed for enhancement of the compensation of Rs.1,30,000/- awarded vide award dated 8.7.2002 passed the Motor Accident Claims Tribunal, Dhamtari in Claim Case No. 279/2002.
2. I have heard learned counsel for the parties and perused the award impugned and record of Tribunal below.
3. Learned counsel for the appellant submits that respondent No.3 has died and therefore he be permitted to delete his name. He is permitted to delete the name of respondent No.3 during course of the day.
4. Respondents / owner, driver and insurance company have not filed any appeal or cross-objection, therefore the finding relating to entitlement, income, liability reached into finality. The only question as submitted by the counsel for the appellant remains for consideration is whether the Tribunal

(2)

below has applied correct multiplier and has correctly assessed the compensation.

5. Undisputedly, as per finding of Tribunal, age of the deceased at the time of death was 30 years, therefore even as per schedule annexed to Section 163 of the Act the correct multiplier would have been 18, but the Tribunal below has applied multiplier of 10 only and assessed the loss of dependency as Rs. 12,000/-. However, considering the age of the deceased on date of accident i.e. 25.4.1995, atleast 25% for future prospects should have been considered while assessing the loss of dependency. Tribunal below has not awarded any amount under the head loss of consortium to the appellant No.1, wife of deceased aged about 20 years which further requires reconsideration as the Tribunal should have awarded at least Rs. 30,000/- towards loss of consortium to the appellant No.1 considering her age and loss of her marital life. However, after considering the dependency of 12,000/- + 3,000/- = 15,000/- and after applying multiplier of 18 + additional compensation of Rs. 30,000/- towards loss of consortium and compensation of Rs. 10,000/- under different head, total compensation of Rs. 3,10,000/- would have been assessed, but the Tribunal has assessed compensation of Rs. 1,30,000/-, which is not adequate.
6. At this stage, counsel for the parties submit that in the present appeal, any of the parties is not liable for delay, therefore interest is liable to be quantified. Considering the submission, interest is quantified as 40,000/-.
7. Consequently, the appeal is partly allowed. Respondent No. 2 shall pay enhanced compensation of Rs. 2,20,000/- within 90 days from today to the appellants alongwith compensation already awarded, if not paid, out of compensation so paid Rs.1,50,000/- shall be disbursed to the appellants No.1 & 2 i.e. widow and minor son of deceased and Rs. 70,000/- shall be paid to the respondent No.4, mother of deceased. No order as to costs.

Chandra

Sd/-
T.P. SHARMA
Judge