

**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**

S.B. Civil Miscellaneous Appeal No. 1086/2017

1. Smt. Saroj Devi W/o Late Jale Singh, aged about 36 years,
2. Ashish S/o Late Jale Singh, aged about 18 years,
3. Ms. Priyanka D/o Late Jale Singh, aged about 16 years, Minor Through Natural, Guardian And Mother Smt. Saroj Devi W/o Late Jale Singh.
4. Ramji S/o Shri Bhikharam, aged about 65 years,
5. Surji Devi W/o Shri Ramjilal, aged about 63 years,
All B/c Jat, R/o Village Shekhpur, Tehsil Kotputli, District Jaipur (Raj).

Appellants-Claimants

Versus

1. Kan Singh S/o Shri Maluk Singh, B/c Rajput, R/o Dhani Karmadi, Tan Papurna, Tehsil Khetri District Jhunjhunu Raj Driver Of Vehicle Truck No. HR-55-L-1109
2. Manager, Bombay Kandla Transport Corporation, Manesar Road, Gurgaon - Through, Power Of Attorney Dhirendra Avasthi S/o Late Balaram Avasthi, R/o House No. 29, Keshav Colony, Morena, M.P. Owner Of Vehicle Truck No. HR-55-L-1109
3. SBI General Insurance Company Policy Insurance Office Natraj, 101, 201 And Junction Of Western Express Highway and Andheri Kurla Road, Andheri, East, Mumbai-400069 (Insurance Company of Vehicle Truck No. HR-55-L-1109) (Policy No. 00000001105171 validity period from 07.07.2013 to 06.07.2014)

----- Respondents-Non-Claimants

For Appellant(s) : Mr. Sanjay Rahar

HON'BLE MR. JUSTICE PRAKASH GUPTA

Judgment

31/10/2018

This appeal for enhancement of compensation is directed against the judgment and award dated 20.01.2017 passed by the Motor Accident Claims Tribunal, Kotputli, District Jaipur (for short 'the Tribunal'), whereby, for death of one Jale Singh, the tribunal awarded a sum of Rs.10,84,672/- as compensation along with interest @ 7.5% per annum.

Learned counsel for the appellants has submitted that the tribunal committed an error in awarding lesser compensation. It was proved by the claimants by adducing cogent evidence that the deceased was working in Rajasthan Flexible Packaging Limited as Loom Feeder and was getting salary of Rs.13,000/- per month. This fact has not been considered by the tribunal in the right perspective. The income of the deceased should have been considered as Rs.13,000/- per month.

I have considered the submissions made by the learned counsel for the appellants and perused the material available on record.

The claim-petition was filed by the appellants seeking compensation on account of death of Jale Singh in the motor vehicle accident which occurred on 22.10.2013. The claimants have produced salary certificate (Ex.16) of Rajasthan Flexible Packaging Limited wherein it is stated that the deceased was

employed in their concern and he was getting Rs.13,000/- per month at the relevant time. This certificate has however not been duly proved. The person issuing the certificate was not examined. Even it was not dispatched by the concern firm. This certificate has not been duly corroborated by producing other, relevant documentary evidence in the form of accounts books, Thus, the Tribunal assessed the income of the deceased as Rs.4,836/- per month on the basis of prevalent rate of minimum wages fixed by the State was Rs.4,836/-. In the light of the judgment of the Hon'ble Apex Court in **National Insurance Company Limited Vs. Pranay Sethi & Ors.**, reported in AIR 2017 SC 5157, an addition of 40% of the aforesaid income is to be added towards future prospects of the deceased which comes to Rs.1,934.40/-. Thus, the monthly income of the deceased comes to Rs.6,770.40/- (4,836+1,934.40). Keeping in view the number of the dependents i.e. five, one fourth of the said income is liable to be deducted towards personal expenses of the deceased. The age of the deceased was 33 years at the time of accident and therefore, a multiplier of 16 to work out the dependency of the claimants is liable to be applied. Thus, the dependency of the claimants comes to Rs.9,74,937.60/-(6,770.40x3/4x12x16). The claimants would be further entitled to receive an addition of Rs.70,000/- towards conventional heads. Thus, the total amount of compensation comes to Rs.10,44,937.60/- (9,74,937.60+70,000).

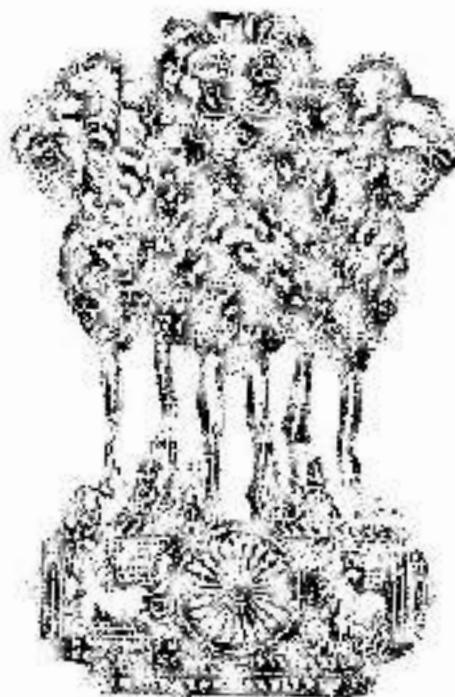
The tribunal has already awarded Rs.10,84,672/- as compensation, which is just and reasonable, therefore, no ground is made out to enhance the amount of compensation.

Consequently, the appeal falls and is, accordingly dismissed.

(PRAKASH GUPTA),
J.

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RAJASTHAN HIGH COURT



राजस्थान जायश्वर