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**(2018) 02 CHH CK 0108**

**In the Chhattisgarh High Court**

**Case No : Miscellaneous Appeal (C) No. 65 Of 2012**

Madhuri Sharma And Ors

APPELLANT

Vs

Umendra Singh Chaudhary And Ors

RESPONDENT

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**Date of Decision : 06-02-2018**

**Acts Referred:**

Motor Vehicles Act, 1988 — Section 173

**Citation : (2018) 02 CHH CK 0108**

**Hon'ble Judges : P. Sam Koshy, J**

**Bench : Single Bench**

**Advocate : Anand Kesharwani, Tarkeshwar Nande**

**Final Decision : Allowed/Disposed Of**

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## **Judgement**

P. Sam Koshy, J

1. The present appeal under Section 173 of the Motor Vehicles Act has been filed by the claimants seeking enhancement of compensation against the award dated 07.09.2011 passed by the Chief Motor Accident Claims Tribunal, Raipur (in short, the Tribunal) in Claim Case No.109/2009. Vide the said impugned award, the Tribunal has awarded a compensation of Rs.1,12,000/- to the claimants along with interest @ 6 percent per annum from the date of application.

2. Counsel for the appellants-claimant submits that the amount of compensation awarded by the Tribunal is unreasonably low and the same deserves to be suitably enhanced. He submits that the deceased in the instant case was a pensioner and his pension has not been properly assessed by the Tribunal while quantifying the compensation. It is a case where even the compensation under the other heads ought to have been much more than what has been awarded. He drew the attention of the court towards bank pass book of the deceased which shows that he was getting monthly pension of Rs.7065/-, but the Tribunal has assessed the income of the deceased at Rs.3000/- which is unreasonably low. Thus, prayed for amount to be suitably enhanced.

3. The counsel for the insurance company, however opposing the appeal submits that the award seems to be fair and reasonable and there is no scope of interference. Therefore, the appeal does not have any merit and the same deserves to be rejected.

4. Considering the submissions put forth on either side and on perusal of records, some of the undisputed facts as it stands is the date of accident being 06.05.2009; the deceased in the instant case being Ramawtar, a 66 years old pensioner; the vehicle involved in the accident and it being duly insured with the respondent No.3- insurance company. There is no dispute so far as liability which has been fastened upon the respondent-insurance company. What is also an admitted factual position was that as per records available before the Tribunal, the deceased was drawing pension of Rs.7065/- per month though subsequently the widow of the deceased has been getting family pension at a reduced rate, and hence the Tribunal has assessed the income of the deceased at only Rs.3000/-.

5. Considering the factual matrix of the case particularly taking note of the fact that deceased was getting monthly pension of Rs.7065/-, this court has no hesitation in assessing the income of the deceased at Rs.7000/- per month which brings annual income at Rs.84,000/- of which if 1/4th is deducted towards personal expenses, the amount left would be Rs.63,000/-, which if multiplied by applying the multiplier of 5, the amount would become Rs.3,15,000/-. It is ordered accordingly that the claimants shall be entitled for loss of dependency at Rs.3,15,000/- instead of Rs.90,000/- as assessed by the Tribunal. In addition, the claimants shall also be entitle for an additional lump sum compensation of Rs.70,000/-under the conventional heads to make the total compensation payable at Rs.3,85,000/- instead of Rs.1,12,000/- as awarded by the Tribunal.

6. The above enhanced amount of compensation shall also carry interest at the same rate as awarded by the Tribunal.

7. Accordingly, the appeal of the appellant-claimants stands allowed and disposed of.