



**IN THE HON'BLE HIGH COURT OF CHHATTISGARH AT
BILASPUR (C.G.)**

M.A. (C) No. 740 of 2013 **Single Bench**

**APPELLANTS/
Claimants**

1. Ghanshyam Jaiswal son of late Dilbar, aged about 52 years,
2. Smt. Rekha Devi Jaiswal wife of Ghanshyam Jaiswal, aged about 44 years,
3. Pankaj Kumar, aged about 23 years, son of Ghanshyam Jaiswal
4. Ku. Preeti, aged about 20 years, daughter of Ghanshyam Jaiswal,
5. Sonu Jaiswal, aged about 18 years, son of Ghanshyam Jaiswal
6. Minor laxmi @ Priya Jaiswal, aged about 16 years, daughter of Ghanshyam Jaiswal, through father Ghanshyam Jaiswal,

740/13
R No.
Presented by Shri. G. P. Mathur
Dated..... 25/07/13

All are resident of Village-Jhalmala, Police Station-Balod, Revenue District-Balod, Civil District-Durg (C.G.)

VERSUS

**RESPONDENTS/
Non-applicants**

1. Sajeevanram Magendra son of Dukharam Magendra, aged about 30 years, resident of Village-Bhaisbod, Tahsil & Police Station-Balod, Revenue District-Balod, Civil District-Durg (C.G.)

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2. National Insurance Company
Limited, through the Divisional
Manager, Divisional Office Supela,
Bhilai, Police Station-Bhilai, Civil
& Revenue District-Durg (C.G.)

**MEMO OF APPEAL UNDER SECTION 173 OF THE MOTOR
VEHICLES ACT 1988**



HIGH COURT OF CHHATTISGARH

Single Bench: Hon'ble Mr. Justice Sanjay K. Agrawal

M.A. (C) No. 740 of 2013

APPELLANTS

CLAIMANTS

Ghanshyam Jaiswal &
others.

Versus

RESPONDENTS

Non-applicants

Sajeevanram Magendra &
another.

Miscellaneous appeal under Section 173 of the
Motor Vehicles Act, 1988

Present: Shri B.P. Singh, counsel for the appellants.
Shri P.P. Sahu, counsel for respondent No. 1.
Shri Qamrul Aziz, counsel for respondent No.
2.

J U D G E M E N T
(01.01.2014)

1. This is claimants' appeal seeking enhancement of compensation awarded by the Additional Motor Accident Claims Tribunal, Balod, Distt. Durg (for short 'the Claims Tribunal') in claim case No. 46/12 vide award dated 2.4.2013.
2. As against the compensation of ₹ 13,00,000/- claimed by unfortunate parents, two brothers and two sisters of deceased Priyanka Jaiswal, aged about 22 years, by filing claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act') for her death in the motor



accident on 12.03.2012, the Tribunal awarded a total sum of ₹ 2,80,000/- to the claimants along with interest @ 6 percent per annum from the date of application till its actual payment.

3. The Tribunal, on a close scrutiny of the evidence led, held that the accident had occurred due to rash and negligent driving of Motor cycle bearing registration No.C.G.07 A.D. 0138 by its driver i.e respondent No. 1- Sajeevanram Magendra; Priyanka Jaiswal died on account of injuries sustained by her in the said accident; respondent No.2/National Insurance Company Limited liable for payment of compensation as it could not establish the violation of policy conditions; and assessed and awarded aforementioned sum as compensation.

4. Shri B.P. Singh, learned counsel for the appellants, while not disputing the assessment of income of the deceased as assessed by the Tribunal, would submit: the Tribunal has deducted $1/3^{\text{rd}}$ of income of deceased towards her personal expenses whereas in view of judgment of Supreme Court in case of **Sarla Verma (Smt.) & others V. Delhi Transport Corporation and another¹**, the amount of $1/5^{\text{th}}$ should have been deducted for her

¹ 2009 (6) SCC 121

personal expenses. He would further submit that the Tribunal has further erred in applying the multiplier of 10 in place of 17 and thus the Tribunal has fallen in error in awarding a low amount of compensation of Rs.2,80,000/- only.

5. Shri Qamrul Aziz, learned counsel appearing for the respondent No.3/Insurance Company supported the award impugned and submitted, in the facts & circumstances of the case the amount awarded by the Tribunal is just and proper compensation which does not call for any interference.
6. I have heard learned counsel appearing for the parties and perused the material available on record including award impugned.
7. The Tribunal assessed the income of the deceased as ₹ 3,000/- per month & ₹ 36,000/- per annum; after deducting $\frac{1}{3}$ rd of it towards his personal expenses, assessed claimant's dependency at ₹ 24,000/- per annum; applied multiplier of 10 and awarded a sum of ₹ 2,40,000/- towards loss of dependency. The Tribunal further awarded ₹ 40,000/- on other conventional heads, and thus, awarded a total sum of ₹ 2,80,000/- as compensation to the claimants.
8. Indisputably, unfortunate parents, two brothers and two sisters of deceased Priyanka Jaiswal i.e.

total six in number, have filed this claim petition.

9. On the face, the Tribunal has committed an error of law in deducting $1/3^{\text{rd}}$ of the income of the deceased towards her personal and living expenses and in applying the multiplier of 10 in place of 17 as the Supreme Court in case of **Sarla Verma (Smt.)** (supra) has prescribed the multiplier of 17 for the age group between 21-25 and also prescribed deduction on account of personal and living expenses as $1/5^{\text{th}}$ in case, the claimants are 6 in number. Therefore, I propose to re-compute the amount of compensation by applying the multiplier of 17 in place of 10 as applied by the Tribunal and by deducting only $1/5^{\text{th}}$ in place of $1/3^{\text{rd}}$ from the income of the deceased for the purpose of determination of claimants' annual dependency.

10. After deducting $1/5^{\text{th}}$ of it towards her personal and living expenses, claimants' annual dependency would be ₹ 28,800/- rounded off to Rs.29,000/- is taken as annual dependency of the claimants. By multiplying the claimants' annual dependency of ₹ 29,000/- with the multiplier of 17, the amount of compensation towards loss of dependency would be ₹ 4,93,000/-. The claimants are further

entitled for ₹ 40,000/- as awarded by the Tribunal, and thus the claimants are entitled for a total sum of ₹ 5,33,000/- as compensation instead of ₹ 2,80,000/- as awarded by the Tribunal.

11. For the foregoing reasons, the appeal filed by the claimants for enhancement of compensation is partly allowed. The total compensation of ₹ 2,80,000/- awarded by the Tribunal is enhanced to ₹ 5,33,000/-. The claimants are further entitled to receive ₹ 2,53,000/- over and above the amount awarded by the Tribunal. Enhanced amount of ₹ 2,53,000/- shall carry interest @ 6% per annum from the date of filing of claim petition till its actual payment. Award is modified to the above extent. Rest of the conditions mentioned in the award shall remain intact.

12. The respondent 2- National Insurance Company Limited is granted four months' time to deposit enhanced amount of compensation of ₹ 2,53,000/- along with interest @ 6% per annum from the date of filing of claim petition before the concerned Claims Tribunal.

13. No order as to cost.

Sd/-
Sanjay K. Agrawal
Judge