

**NAFR****HIGH COURT OF CHHATTISGARH, BILASPUR****Misc. Appeal (C) No. 250 of 2011**

Smt. Jamila Begum W/o Wahid Khan, aged about 30 years, Caste Musalman,  
R/o Awash Para, Pakhanjur, Tahsil & PS Pakhanjur, District- Uttar Bastar  
Kanker (C.G.)

**---- Appellant****Versus**

1. Ranjeet Haldar S/o Niranjan Haldar, aged about 25 years, R/o P.V. 11, Tehsil Pakhanjur, District Kanker (CG) (Vehicle Driver)
2. Pankaj Kumar Morya S/o Dhaniram Morya, aged about 26 years, resident of P.V.-II, Tehsil Pakhanjur, District Kanker (CG) (Vehicle owner)
3. The Oriental Insurance Company Limited, near Adarsh Bal Mandir, main road, Dhamtari, District Dhamtari (CG) (Insurer)
4. Devvrat Shaha S/o Ashok Shaha, aged about 30 years, R/o P.V. 11, Tehsil Pakhanjur, District Kanker (CG)

**---- Respondents****Misc. Appeal (C) No. 375 of 2011**

Smt. Anima Bhaval W/o Kalachand Bhaval, aged 35 years, caste Kayasth  
(Bangali), R/o P.V. 55, Pump No.1, Pakhanjur, Tehsil & Thana Pakhanjur,  
District Uttar Baster, Kanker (CG)

**---- Appellant****Versus**

1. Ranjit Haldar S/o Niranjan Haldar, aged about 25 years, R/o P.V. 11, Tehsil Pakhanjur, District Kanker (CG) (Vehicle Driver)
2. Pankaj Kumar Marya S/o Dhaniram Marya, aged about 26 years, resident of P.V. 11, Tehsil Pakhanjur, District Kanker (CG) (Vehicle owner)
3. The Oriental Insurance Company Limited, near Adarsh Bal Mandir, main road, Dhamtari, District Dhamtari (CG) (Insurer Company)
4. Devvrat Shaha S/o Ashok Shaha, R/o P.V. 11, Tehsil Pakhanjur, District Kanker (CG)

**---- Respondents**

**Misc. Appeal (C) No. 376 of 2011**

1. Smt. Meera Shaha W/o Pradeep Shaha, aged about 50 years,
  2. Tapas Shaha S/o Pradeep Shaha, aged about 25 years,
- Both R/o Purana Bazar Pakhanjur, Tahsil and Police Station Pakhanjur,  
District- Uttar Bastar Kanker (C.G.)

**---- Appellants**

**Versus**

1. Ranjeet Haldar S/o Niranjan Haldar, aged about 25 years, R/o P.V. 11, Tehsil Pakhanjur, District Kanker (CG) (Vehicle Driver)
2. Pankaj Kumar Morya S/o Dhaniram Morya, aged about 26 years, resident of P.V. 11, Tehsil Pakhanjur, District Kanker (CG) (Vehicle owner)
3. The Oriental Insurance Company Limited, near Adarsh Bal Mandir, main road, Dhamtari, District Dhamtari (CG) (Insurer Company)
4. Devvrat Shaha S/o Ashok Shaha, R/o P.V. 11, Tehsil Pakhanjur, District Kanker (CG)

**---- Respondents**

**Misc. Appeal (C) No. 501 of 2011**

Smt. Sandhya Rani Sumddar W/o Tapan Sumddar, aged about 38 years,  
caste Kayast (Bangali) R/o – P.V. 55 Pump No.3 Pankhajpur, Tahsil and police  
Station Pankhajpur, District Uttar Bastar Kanker (CG)

**---- Appellant**

**Versus**

1. Ranjeet Haldar S/o Niranjan Haldar, aged about 25 years, R/o P.V. 11, Tehsil Pakhanjur, District Kanker (CG) (Vehicle Driver)
2. Pankaj Kumar Morya S/o Dhaniram Morya, aged about 26 years, resident of P.V. 11, Tehsil Pakhanjur, District Kanker (CG) (Vehicle owner)
3. The Oriental Insurance Company Limited, near Adarsh Bal Mandir, main road, Dhamtari, District Dhamtari (CG) (Insurer Company)
4. Dev Vrat Shaha S/o Ashok Shaha, R/o P.V. 11, Tehsil Pakhanjur, District Kanker (CG)

**---- Respondents**

**Misc. Appeal (C) No. 836 of 2011**

Smt. Aarti Nandi W/o Late Sukhranjan Nandi, aged about 50 years, cast Kayast (Bangali), R/o P.V. 55 Pump No.3, Pakhanjur, Tahsil & P.S. Pakhanjur, District Uttar Bastar, Kanker (CG)

**---- Appellant**

**Versus**

1. Ranjeet Haldar S/o Nirranjan Haldar, aged about 25 years, R/o P.V. 11, Tehsil Pakhanjur, District Kanker (CG) (Vehicle Driver)
2. Pankaj Kumar Marya S/o Dhaniram Marya, aged about 26 years, resident of P.V. 11, Tehsil Pakhanjur, District Kanker (CG) (Vehicle owner)
3. The Oriental Insurance Company Limited, near Adarsh Bal Mandir, main road, Dhamtari, District Dhamtari (CG) (Insurer Company)
4. Dev Vrat Shaha S/o Ashok Shaha, R/o P.V. 11, Tehsil Pakhanjur, District Kanker (CG)
5. Gopal Nandi S/o late Shukhranjan Nandi, aged about 28 years, cast Kayst (Bangali) R/o P.V. 55 Pump No.3, Pakhanjur, Tahsil & P.S. Pakhanjur, District Uttar Bastar, Kanker (CG)

**---- Respondents**

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| For Appellants                   | : | Shri A. L. Singroul, Advocate     |
| For Respondent no.3              | : | Shri Pravin Ku. Tulsyan, Advocate |
| For Respondent-Owner & Purchaser | : | Shri Gajendra Sahu, Advocate      |

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**Misc. Appeal (C) No. 1261 of 2010**

1. Smt. Suchitra Vishwas Wd/o late Arun Vishwas, aged about 30 years,
2. Ashim Vishwas S/o Late Arun Vishwas, aged about 19 years,  
Both are caste of Namoshudra (Bengali), R/o P.V.-42 Pakhanjur, Tehsil & Thana Pakhanjur, District North Bastar Kanker (C.G.)

**---- Appellants**

**Versus**

1. Ranjeet Haldar S/o Nirranjan Haldar, aged about 25 years, Occupation Driver, R/o P.V. 11, Tehsil Pakhanjur, District Kanker (CG)

2. Pankaj Kumar Marya S/o Dhaniram Marya, aged about 26 years, resident of P.V. 11, Tehsil Pakhanjur, District Kanker (CG) ( owner)
3. The Oriental Insurance Company Limited, near Adarsh Bal Mandir, main road, Dhamtari, District Dhamtari (CG) (Insurer )
4. Devvrat Shaha S/o Ashok Shaha, aged about 30 years, R/o P.V. 11, Tehsil Pakhanjur, District Kanker (CG)

**---- Respondents**

**Misc. Appeal (C) No. 1264 of 2010**

1. Smt. Urmila Wagchi W/o late Kiran Wagchi, aged about 30 years, caste Namoshudra (Bangali), R/o P.V.133, Pakhanjur, Tehsil & Thana Pakhanjur, District North Baster, Kanker (CG)
2. Nitish Wagchi S/o late Kiran Wagchi, aged about 18 years, caste Namoshudra (Bangali), R/o P.V.133, Pakhanjur, Tehsil & Thana Pakhanjur, District North Baster, Kanker (CG)

**---- Appellants**

**Versus**

1. Ranjeet Haldar S/o Niranjan Haldar, aged about 25 years, Occupation Driver, R/o P.V. 11, Tehsil Pakhanjur, District Kanker (CG)
2. Pankaj Kumar Marya S/o Dhaniram Marya, aged about 26 years, resident of P.V. 11, Tehsil Pakhanjur, District Kanker (CG) ( owner)
3. The Oriental Insurance Company Limited, near Adarsh Bal Mandir, main road, Dhamtari, District Dhamtari (CG) (Insurer )
4. Devvrat Shaha S/o Ashok Shaha, aged about 30 years, R/o P.V. 11, Tehsil Pakhanjur, District Kanker (CG)

**---- Respondents**

**Misc. Appeal (C) No. 1265 of 2010**

1. Smt. Archana Datt Wd/o Late Vipul Datt aged about 40 years,
2. Anup Datt S/o Late Vipul Datt, aged about 22 years,  
Both are caste of Kayasta (Bengali), R/o P.V.-116 Pakhanjur, Tahsil & Thana Pakhanjur, District North Bastar Kanker (C.G.)

**---- Appellants**

**Versus**

1. Ranjeet Haldar S/o Niranjan Haldar, aged about 25 years, Occupation Driver, R/o P.V. 11, Tehsil Pakhanjur, District Kanker (CG)
2. Pankaj Kumar Marya S/o Dhaniram Marya, aged about 26 years, resident of P.V. 11, Tehsil Pakhanjur, District Kanker (CG) ( owner)
3. The Oriental Insurance Company Limited, near Adarsh Bal Mandir, main road, Dhamtari, District Dhamtari (CG) (Insurer )
4. Devvrat Shaha S/o Ashok Shaha, aged about 30 years, R/o P.V. 11, Tehsil Pakhanjur, District Kanker (CG)

**---- Respondents**

**Misc. Appeal (C) No. 1266 of 2010**

Smt. Shila Das Wd/o late Vipul Das, aged about 22 years, caste Kayasta (Bengali) R/o P.V. 55 Pump No.4, Tahsil & P.S. Pakhanjur, District North Bastar, Kanker (CG)

**---- Appellant**

**Versus**

1. Ranjeet Haldar S/o Niranjan Haldar, aged about 25 years, Occupation Driver, R/o P.V. 11, Tehsil Pakhanjur, District Kanker (CG)
2. Pankaj Kumar Marya S/o Dhaniram Marya, aged about 26 years, resident of P.V. 11, Tehsil Pakhanjur, District Kanker (CG) ( owner)
3. The Oriental Insurance Company Limited, near Adarsh Bal Mandir, main road, Dhamtari, District Dhamtari (CG) (Insurer )
4. Devvrat Shaha S/o Ashok Shaha, aged about 30 years, R/o P.V. 11, Tehsil Pakhanjur, District Kanker (CG)

**---- Respondents**

**Misc. Appeal (C) No. 59 of 2011**

Smt. Kavita Majumdar W/o late Manotosh Majumdar, aged about 30 years, Caste Namoshudra (Bangali), R/o Indira Colony Naya Bazar, Pakhanjur, Tehsil & Police Station Pakhanjur, District- North Bastar Kanker (C.G.)

**---- Appellant**

**Versus**

1. Ranjit Haldar S/o Niranjan Haldar, aged about 25 years, Occupation Driver, R/o P.V. 11, Tehsil Pakhanjur, District Kanker, District Kanker (CG)

2. Pankaj Kumar Marya S/o Dhaniram Marya, aged about 26 years, resident of P.V.-11, Tehsil Pakhanjur, District Kanker (CG)
3. The Oriental Insurance Company Limited, near Adarsha Bal Mandir, main road, Dhamtari, District Dhamtari (CG) (Insurer)
4. Devvrat Saha S/o Ashok Shaha, aged about 30 years, R/o P.V. 11, Tehsil Pakhanjur, District Kanker (CG)

**---- Respondents**

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|----------------------------------|---------------------------------|
| For Appellants                   | : Shri C. K. Sahu, Advocate     |
| For Respondent no.3              | : Shri Sudhir Agrawal, Advocate |
| For Respondent-Owner & Purchaser | : Shri Gajendra Sahu, Advocate  |

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**Hon'ble Shri Justice P. Sam Koshy**

**Order On Board**

**21.09.2017**

These are 10 appeals preferred by the claimants against separate awards passed by the Additional Motor Accident Claims Tribunal (FTC) Bhanupratappur, District North Bastar, Kanker (CG) vide order dated 25.02.2010 in Claim Case Nos. 53/07, 41/07, 54/07, 56/07, 51/07, 100/07, 99/07, 98/07, 01/07 & 102/07.

2. Brief facts of the case are that all the 10 appeals are death related claim cases, arising out of the same accident that took place on 24.03.2006 when the Jeep bearing registration No. CG 10/3195 owned by respondent Pankaj Kumar Marya the registered owner and respondent Devvrat Shaha being the subsequent purchaser and driven by Ranjeet Haldar got blasted by a land mine installed by naxalites at village No.44 enroute Pakhanjura, District Kanker. In the said accident, 13 persons had died and their legal representatives had filed individual claim cases before the additional Motor Accident Claims Tribunal (FTC) Bhanupratappur, District North Bastar, Kanker. The Tribunal while considering the said cases under Section 163A of the MV

Act vide its order dated 25.02.2010 has awarded compensation of Rs.1,92,000/-, 1,82,000/-, Rs.1,72,000/-, Rs.72,000/-, Rs.1,42,000/-, Rs.1,42,000/-, Rs.1,82,000/-, Rs.1,72,000/-, Rs.1,22,000/- & Rs.1,92,000/- in Claim Case Nos. 53/07, 41/07, 54/07, 56/07, 51/07, 100/07, 99/07, 98/07, 01/07 & 102/07 respectively.

**3.** The present appeals have been filed by the claimants under Section 173 of the Motor Vehicles Act seeking enhancement of the compensation awarded by the Tribunal.

**4.** According to the counsel for the appellant-claimants, the Tribunal has taken notional income of Rs.15,000/- yearly while quantifying the compensation in each of the claim cases which is unreasonably low considering the fact that the accident is of the year 2006. According to the counsel for the claimants, the Tribunal has also erred in not taking the income under future prospects while calculating compensation and thus, prayed for enhancement of the award suitably.

**5.** Per contra, counsel appearing for the Insurance Company submits that the quantum of compensation awarded by the Tribunal seems to be fair and reasonable and the same does not warrant any interference for the reason that the claimants have not been able to adduce substantive evidence to prove the monthly income of the deceased persons. Likewise, the Insurance Company has also preferred appeals in each of the claim cases. However, the Insurance Company could succeed in only four of the appeals i.e. MAC Nos. 836/10, 837/10, 839/10 & 842/10 in the cases of Smt. Sangha Rani Samaddar, Smt. Archana Dutt, Smt. Meera Shaha and Smt. Chhaya Kundu respectively where the liability of payment of compensation has been fastened upon the owner and the driver exonerating the Insurance Company of its

liability of payment of compensation. Smt. Chhaya Kundu has not preferred any appeal against the impugned award.

6. Having heard the contentions put forth on either side and on perusal of the record what is reflected is that this Court has already dismissed the appeals of the Insurance Company except the case of Smt. Sangha Rani Samaddar, Smt. Archana Dutt & Smt. Meera Shaha. Thus, the aspect of liability stands settled and it is ordered that the liability of payment of compensation except three cases i.e. MAC Nos. 501/11, 1265/10 & 376/11, in all other cases shall be upon the Insurance Company as the vehicle at the relevant point of time was duly insured covering the risk of 9 persons.

7. The contention put forth by the counsel for the appellant-claimants appears to have some force for the reason that the date of accident being 24.03.2006 where even an unskilled labour would be earning Rs.100/- a day which brings the monthly income to Rs.3,000/- and the yearly income Rs.36,000/-. In the given circumstances, the amount of Rs.15,000/- annually assessed by the Tribunal is unreasonably low and the same thus requires enhancement. It is therefore assessed that the notional income for the purpose of calculating compensation would be Rs.36,000/- yearly in stead of Rs.15,000/- as assessed by the Tribunal. Taking into consideration the view of the Supreme Court in the case of **Sarla Verma (Smt) and others v. Delhi Transport Corporation and another** reported in **(2009) 6 SCC 121** and all subsequent decisions, this Court does not have any hesitation in holding that the claimants would also be entitled for the income towards future prospects while quantifying compensation. It is ordered accordingly. In addition, the claimants will also be entitled for compensation of Rs.9,500/-(Rs.2,000/- for funeral Expenses, Rs.5,000/- for loss of consortium and Rs.2,500/- for loss of

estate) towards conventional head as per the Schedule of the Motor Vehicles Act.

**8.** In MAC No. 250/11, the deceased was aged about 35 years at the time of accident. Therefore, as per Sarla Verma case, the multiplier to be used will be that of 16. Considering the age of the deceased, 50% of the income when added towards future prospects, the amount reaches to Rs.54,000/- of which if 1/3rd is deducted towards personal expenses, the figure comes to Rs.36,000/-. If the said amount is multiplied by applying the multiplier of 16, the amount reaches to Rs.5,76,000/-. Besides this, the claimant will also be entitled for an amount of Rs.9,500/- under the conventional head. Thus, the claimant in MAC No. 250/2011 shall be entitled for a total compensation of Rs.5,85,500/- in stead of Rs.1,82,000/- as awarded by the Tribunal.

**9.** In MAC No.375/11, the deceased was aged about 40 years at the time of accident. Therefore, as per Sarla Verma case, the multiplier to be used will be that of 15. Considering the age of the deceased, if 50% of the income is added towards future prospects, the amount reaches to Rs.54,000/- of which if 1/3rd is deducted towards personal expenses, the figure comes to Rs.36,000/-. If the said amount is multiplied by applying the multiplier of 15, the amount reaches to Rs.5,40,000/-. Besides this, the claimant will also be entitled for an amount of Rs.9,500/- under the conventional head. Thus, the claimant in MAC No. 375/2011 shall be entitled for a total compensation of Rs.5,49,500/- in stead of Rs.1,72,000/- as awarded by the Tribunal.

**10.** In MAC No.376/11, the deceased was aged about 50 years at the time of accident. Therefore, as per Sarla Verma case, the multiplier to be used will be that of 13. Considering the age of the deceased, 30% of the income is to be added towards future prospects, the amount then reaches to Rs.46,800/- of

which if 1/3rd is deducted towards personal expenses, the figure comes to Rs.31,200/-. If the said amount is multiplied by applying the multiplier of 13, the amount would be Rs.4,05,600/-. Besides this, the claimants would also be entitled for an amount of Rs.9,500/- under the conventional head. Thus, the claimants in MAC No. 376/2011 shall be entitled for a total compensation of Rs.4,15,100/- in stead of Rs. 72,000/- as awarded by the Tribunal.

**11.** In MAC No. 501/11, the deceased was aged about 50 years at the time of accident. Therefore, as per Sarla Verma case, the multiplier to be used will be that of 13. Considering the age of the deceased, if 30% of the income is added towards future prospects, the amount reaches to Rs.46,800/- of which if 1/3rd is deducted towards personal expenses, the figure comes to Rs.31,200/-. If the said amount is multiplied by applying the multiplier of 13, the amount reaches to Rs.4,05,600/-. Besides this, the claimant would also be entitled for an amount of Rs.9,500/- under the conventional head. Thus, the claimant in MAC No. 501/2011 shall be entitled for a total compensation of Rs.4,15,100/- in stead of Rs.1,42,000/- as awarded by the Tribunal.

**12.** In MAC No. 836/11, the deceased was aged about 24 years at the time of accident. Therefore, as per Sarla Verma case, the multiplier to be used will be that of 18. Considering the age of the deceased, if 50% of the income is added towards future prospects, the amount reaches to Rs.54,000/- of which if 1/3rd is deducted towards personal expenses, the figure comes to Rs.36,000/-. If the said amount is multiplied by applying the multiplier of 18, the amount reaches to Rs.6,48,000/-. Besides this, the claimant would also be entitled for an amount of Rs.9,500/- under the conventional head. Thus, the claimant in MAC No. 836/2011 shall be entitled for a total compensation of Rs.6,57,500/- in stead of Rs.1,42,000/- as awarded by the Tribunal.

**13.** In MAC No. 1261/10, the deceased was aged about 35 years at the time of accident. Therefore, as per Sarla Verma case, the multiplier to be used will be that of 16. Considering the age of the deceased, if 50% of the income is added towards future prospects, the amount reaches to Rs.54,000/- of which if 1/3rd is deducted towards personal expenses, the figure comes to Rs.36,000/-. If the said amount is multiplied by applying the multiplier of 16, the amount reaches to Rs.5,76,000/-. Besides this, the claimants would also be entitled for an amount of Rs.9,500/- under the conventional head. Thus, the claimants in MAC No. 1261/2010 shall be entitled for a total compensation of Rs.5,85,500/- in stead of Rs.1,82,000/- as awarded by the Tribunal.

**14.** In MAC No. 1264/10, the deceased was aged about 38 years at the time of accident. Therefore, as per Sarla Verma case, the multiplier to be used will be that of 15. Considering the age of the deceased, if 50% of the income is added towards future prospects, the amount reaches to Rs.54,000/- of which if 1/3rd is deducted towards personal expenses, the figure comes to Rs.36,000/-. If the said amount is multiplied by applying the multiplier of 15, the amount reaches to Rs.5,40,000/-. Besides this, the claimants would also be entitled for an amount of Rs.9,500/- under the conventional head. Thus, the claimants in MAC No. 1264/2010 shall be entitled for a total compensation of Rs.5,49,500/- in stead of Rs.1,72,000/- as awarded by the Tribunal.

**15.** In MAC No. 1265/10, the deceased was aged about 55 years at the time of accident. Therefore, as per Sarla Verma case, the multiplier to be used will be that of 11. Considering the age of the deceased, the claimants would not be entitled for compensation under future prospects. If 1/3rd of the income is deducted towards personal expenses, the figure comes to Rs.24,000/-. If the said amount is multiplied by applying the multiplier of 11, the amount reaches to Rs.2,64,000/-. Besides this, the claimants would also

be entitled for an amount of Rs.9,500/- under the conventional head. Thus, the claimants in MAC No. 1265/2010 shall be entitled for a total compensation of Rs.2,73,500/- in stead of Rs.1,22,000/- as awarded by the Tribunal.

**16.** In MAC No. 1266/10, the deceased was aged about 26 years at the time of accident. Therefore, as per Sarla Verma case, the multiplier to be used will be that of 17. Considering the age of the deceased, if 50% of the income is added towards future prospects, the amount reaches to Rs.54,000/- of which if 1/3rd is deducted towards personal expenses, the figure comes to Rs.36,000/-. If the said amount is multiplied by applying the multiplier of 17, the amount reaches to Rs.6,12,000/-. Besides this, the claimant would also be entitled for an amount of Rs.9,500/- under the conventional head. Thus, the claimant in MAC No. 1266/2010 shall be entitled for a total compensation of Rs.6,21,500/- in stead of Rs.1,92,000/- as awarded by the Tribunal.

**17.** In MAC No. 59/11, the deceased was aged about 30 years at the time of accident. Therefore, as per Sarla Verma case, the multiplier to be used will be that of 17. Considering the age of the deceased, if 50% of the income is added towards future prospects, the amount reaches to Rs.54,000/- of which if 1/3 is deducted towards personal expenses, the figure comes to Rs.36,000/-. If the said amount is multiplied by applying the multiplier of 17, the amount reaches to Rs.6,12,000/-. Besides this, the claimant would also be entitled for an amount of Rs.9,500/- under the conventional head. Thus, the claimant in MAC No. 59/2011 shall be entitled for a total compensation of Rs.6,21,500/- in stead of Rs.1,92,000/- as awarded by the Tribunal.

**18.** The enhanced amount in all the appeals shall carry interest at the same rate as fixed by the Tribunal.

**19.** So far as MAC Nos. 376/11, 501/11 & 1265/10 are concerned, the Insurance Company had also challenged the same award on the ground of liability vide MAC Nos. 836/10, 837/10, 839/10. The said appeals of the Insurance Company were allowed and the Insurance Company was exonerated of its liability of payment of compensation and the liability was fastened upon the owner, the subsequent purchaser and the driver. However, since the Insurance Company has already deposited the awarded amount, it has been given the liberty to recover the same from the owners and the driver. Now, these appeals i.e. MAC Nos. 376/11, 501/11 & 1265/10 being allowed and the quantum of compensation getting enhanced, the liability of depositing the enhanced amount falls upon the owner, the subsequent purchaser and the driver.

**20.** The appeals of the claimants thus stand allowed.

**Sd/-**

**(P. Sam Koshy)  
JUDGE**