

HIGH COURT of CHHATTISGARH, BILASPUR**MAC No. 779 of 2014**

1. Prakash Nishad S/o Ganesh Ram Nishad Aged About 49 Years
 2. Phool Bai Nishad W/o Prakash Nishad Aged About 45 Years
 3. Bhupat Singh Nishad S/o Prakash Nishad Aged About 23 Years
 4. Pradeep Kumar Nishad S/o Prakash Nishad Aged About 19 Years
 5. Ku. Kuleshwari Nishad D/o Prakash Nishad Aged About 16 Years
 6. Ku. Madhu Nishad D/o Prakash Nishad Aged About 10 Years
 7. Ku. Tanu Nishad D/o Prakash Nishad Aged About 5 Years
- Appellants No.5 to 7 are Minor, Through- Father- Prakash Nishad.
8. Ganesh Ram Nishad S/o Late Mehattar Ram Nishad Aged About 70
 9. Laxmi Bai Nishad W/o Ganesh Ram Nishad Aged About 65 Years
- All R/o Deori, P.S. Deori, Tah. Dondilohara, Distt. Balod C.G.

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1. Budhram Sahu S/o Kejauram Sahu Aged About 29 Years, occupation, Driver of Bus bearing registration No.CG-04-DA-9400, R/o Magarlota, P.S. Somni, Distt. Rajnandgaon C.G.
2. Firoj Quareshi S/o Arif Quareshi Aged About 27 Years, occupation Bus Owner, R/o Kurmipara, Balod, Tah. and Distt. Balod C.G.
3. Branch Manager IFFCO Tokiyo General Insurance Co. Ltd., Branch Office- 19/5, First Floor, Abhiyan Complex, Near Chouhan Hotel, Dakshin Gangotari, Bhilai, Tahsil and Distt. Durg C.G.

---- Respondents

For Appellants	:	Shri SK Agrawal, Advocate.
For respondents No.3	:	Shri Amrito Das and Shri P. Acharya, Advocates.

SB: Hon'ble Shri Justice P. Sam Koshy**Order On Board****22/08/2017**

1. This is claimant's appeal under Section 173 of the Motor Vehicles Act seeking enhancement of compensation against the award dated 04.04.2014 passed by the Motor Accident Claims Tribunal, Balod (in short, the Tribunal) in Claim Case No.49/2013.
2. Brief facts of the case is that, the deceased Deepak while travelling as pillion rider along with his friend Ishwar Dewangan on 27.09.2013

they met with an accident as a result of which both the riders on the motorcycle died on the spot. The legal representatives of deceased filed a claim case under Section 166 of the Motor Vehicles Act. It was contended before the Tribunal that deceased Deepak was working as Constable in Central Industrial Security Force.

3. The ground of challenge in the appeal is that the Tribunal has not taken into account the income under the head future prospects while quantifying the compensation. He further submits that considering the age of the deceased there would have been substantial growth in future income and therefore, he was also entitled for compensation under the head future prospects. Likewise, the amount awarded under the conventional heads is also on the lower side which deserves enhancement and prayed for modification of the award suitably.
4. Counsel appearing for the respondent-insurance company however opposes the appeal and submits that the award passed by the Tribunal is just, proper and reasonable as the same has been passed based upon the evidence which have come on record.
5. Having heard the counsel for the parties and on perusal of records what clearly reflected is that the reason by which the Tribunal has denied future prospects is taking in to consideration the judgment reported in *Donat Lous Machado and Ors. Vs. L. Ravindra & Ors.*, 1999 ACJ-1400. It is undisputed that much water since flown and leading case for all practicable purpose the proposition of law laid down in the decision of Supreme Court in the case of *Sarla Verma &*

Ors. Vs. Delhi Transport Corporation & Anr. 2009 (6) SCC 121 has been taken as the guiding principle to decide and adjudicate upon the claim case under the Motor Vehicles Act. Thus, the finding of the Tribunal in this regard is erroneous and the claimants are entitled for 50 percent future prospects. Likewise it is also settled principles of law as has been held in case of Sarla Verma (Supra) and which also reflects from the schedule in the Motor Vehicles Act that the multiplier to be applied is based upon the age of the deceased and not the age of the claimants. On this count also the finding is apparently erroneous. Further the amount of compensation granted under the conventional heads also is on the lower side and the same deserves enhancement.

6. Considering the salary of the wages of the deceased Deepak as has been assessed by the Tribunal based on the pay slip which has been brought on record, the annual income is reflected at Rs.2,39,352/- of which if we add 50% under the head of future prospects, it would reach to Rs.3,59,028/- of which if 50 percent is deducted towards personal expenses, the amount would come to Rs.1,79,514/-. Considering the age of the deceased to be 26 years and taking into consideration the guidelines in the case of Sarla Verma (Supra), the multiplier to be applied would be 17 and applying the said multiplier of 17, the total amount would reach to Rs.30,51,738/-. It is ordered accordingly that the claimants shall be entitle for compensation under the head of loss of dependency at Rs.30,51,738/- instead of 11,96,760/- as quantified by the Tribunal.

7. So far as compensation under the other heads are concern, taking into consideration the view of the Supreme Court as has been laid down in the case of Rajesh & Ors. Vs. Rajbir Singh & Ors., 2013(9)SCC 54, this court is of the opinion that, claimants would had been also entitled for lump sum compensation of Rs.1,00,000/- under the other heads inclusive of funeral expenses also.
8. Thus, in the opinion of this court, the claimants shall be entitled for a total compensation of Rs.31,51,738/- instead of 12,26,760/- as awarded by the Tribunal. The enhanced amount of compensation shall also carry interest at the same rate as has been ordered by the Tribunal. Rest of the conditions mentioned in the award shall remain intact.
9. Thus, the appeal stands allowed. The respondent-insurance company is granted two months time to deposit the enhanced amount of compensation before the concerned claims Tribunal.

Sd/-
(P. Sam Koshy)
Judge