

**HIGH COURT OF CHHATTISGARH AT BILASPUR**

**Misc. Appeal (C) No. 284 of 2011**

1. Anil Kumar S/o late Rajkumar Suryavanshi, aged about 19 years, R/o village Pandhi, PS Seepat, Tahsil, Masturi, District Bilaspur (CG)
2. Sunil Kumar S/o late Rajkumar Suryavanshi, aged about 14 years, minor through elder brother Anil Kumar, R/o village Pandhi, PS Seepat, Tahsil, Masturi, District Bilaspur (CG)
3. Deepak Kumar S/o late Rajkumar Suryavanshi, aged about 9 years, minor through elder brother Anil Kumar, R/o village Pandhi, PS Seepat, Tahsil, Masturi, District Bilaspur (CG)

**---- Appellants**

**Versus**

1. Vedprakash S/o Bhuvan Lal, aged about 33 years, R/o CSEB Colony quarter No. O.D. 28, Korba, District Korba, CG
2. Smt. Girja Shrivastava W/o Shrisant @ Shrikant Kumar, R/o CSEB Colony quarter No. O.D. 28, Korba, District Korba, CG
3. United India Insurance Company Ltd. Branch Office Rajendranagar, Bilaspur, through its Branch Manager, United India Company Ltd. Bilaspur, Tahsil & District Bilaspur (CG)

**---- Respondents**

**Misc. Appeal (C) No. 50 of 2011**

1. Smt. Godawari Bai W/o Laxman Suryavanshi, aged about 29 years, R/o village Bodri, PS Chakrabhata, Tahsil Bilha, District Bilaspur, CG
2. Laxman Suryavanshi S/o Arjun Suryavanshi, aged about 31 years, Village Bodri, P.S. Chakrabhata, Tah. Bilha, Dist- Bilaspur, CG

**---- Appellants**

**Vs**

1. Vedprakash S/o Bhuvan Lal, aged about 33 years, R/o CSEB Colony quarter No. O.D. 28, Korba, District Korba, CG
2. Smt. Girja Shrivastava W/o Shrisant @ Shrikant Kumar, R/o CSEB Colony quarter No. O.D. 28, Korba, District Korba, CG
3. United India Insurance Company Ltd. Branch Office Rajendranagar, Bilaspur, through its Branch Manager, United India Company Ltd. Bilaspur, Tahsil & District Bilaspur (CG)

**---- Respondents**

**Misc. Appeal (C) No. 85 of 2011**

1. Omprakash Suryavanshi S/o late Arjun Suryavanshi, aged about 29 years, R/o village Bodri, PS Chakarbhata, Tahsil Bilha, District Bilaspur, CG
2. Deo Kumari Suryavanshi D/o Omprakash Suryavanshi, Village Bodri, P.S. Chakarbhata, Tah. Bilha, Bilaspur, minor through father Omprakash Suryavanshi
3. Devendra Suryavanshi S/o Omprakash Suryavanshi, Village Bodri, P.S. Chakarbhata, Tah. Bilha, Bilaspur, minor through father Omprakash Suryavanshi

**---- Appellants**

**Vs**

1. Vedprakash S/o Bhuvan Lal, aged about 33 years, R/o CSEB Colony quarter No. O.D. 28, Korba, District Korba, CG
2. Smt. Girja Shrivastava W/o Shrisant @ Shrikant Kumar, R/o CSEB Colony quarter No. O.D. 28, Korba, District Korba, CG
3. United India Insurance Company Ltd. Branch Office Rajendranagar, Bilaspur, through its Branch Manager, United India Company Ltd. Bilaspur, Tahsil & District Bilaspur (CG)

**---- Respondents**

**Misc. Appeal (C) No. 94 of 2011**

1. Anil Kumar S/o late Rajkumar Suryavanshi, aged about 19 years, R/o village Pandhi, PS Seepat, Tahsil, Masturi, District Bilaspur (CG)
2. Sunil Kumar S/o late Rajkumar Suryavanshi, aged about 14 years, minor through elder brother Anil Kumar, R/o village Pandhi, PS Seepat, Tahsil, Masturi, District Bilaspur (CG)
3. Deepak Kumar S/o late Rajkumar Suryavanshi, aged about 9 years, minor through elder brother Anil Kumar, R/o village Pandhi, PS Seepat, Tahsil, Masturi, District Bilaspur (CG)

**---- Appellants**

**Vs**

1. Vedprakash S/o Bhuvan Lal, aged about 33 years, R/o CSEB Colony quarter No. O.D. 28, Korba, District Korba, CG
2. Smt. Girja Shrivastava W/o Shrisant @ Shrikant Kumar, R/o CSEB Colony quarter No. O.D. 28, Korba, District Korba, CG

3. United India Insurance Company Ltd. Branch Office Rajendranagar, Bilaspur, through its Branch Manager, United India Company Ltd. Bilaspur, Tahsil & District Bilaspur (CG)

---- Respondents

**Misc. Appeal (C) No. 419 of 2010**

1. Ku. Neha D/o Dilip Suryavanshi, aged about 9 years, R/o village Pandhi, PS Seepat, Tahsil & District Bilaspur, CG
2. Darshan S/o Sadan Suryavanshi, R/o Village – Pandhi, PS Seepat, Tahsil & District Bilaspur, CG

---- Appellants

**Vs**

1. Vedprakash S/o Bhuvan Lal, aged about 33 years, R/o CSEB Colony quarter No. O.D. 28, Korba, District Korba, CG
2. Smt. Girja Shrivastava W/o Shrisant @ Shrikant Kumar, R/o CSEB Colony quarter No. O.D. 28, Korba, District Korba, CG
3. United India Insurance Company Ltd. Branch Office Rajendranagar, Bilaspur, through its Branch Manager, United India Company Ltd. Bilaspur, Tahsil & District Bilaspur (CG)

---- Respondents

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|---------------------|---|--------------------------------------------------------------------------------|
| For Appellants      | : | Shri Amit Kumar, Advocate.                                                     |
| For Respondent no.3 | : | Shri H. P. Agrawal, senior advocate along with Shri Pankaj Agrawal, Advocates. |

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

**Order on Board**

**13/11/2017**

These are five appeals arising out of the same accident that took place on 12.02.2009. Claim Case Nos. 50/10, 54/10, 51/10 & 56/10 have been decided by the 3rd Additional Motor Accident Claims Tribunal, Bilaspur (CG) vide order dated 19.10.2010 and Claim Case No. 16/09 has been decided by the Additional Motor Accident Claims Tribunal, Bilaspur vide order dated 14.01.2010. Vide the impugned award, the Tribunal has awarded Rs.4,18,000/-, Rs.1,60,000/-, Rs, 1,90,000/-, Rs.1,90,000/- & Rs.1,80,000/-

as compensation to the claimants in Claim Case Nos. 50/10, 54/10, 51/10, 56/10 & 16/09 respectively.

2. MAC No.284/11 arises out of Claim Case No. 50/10 in connection with the death of Rajkumar Suryavanshi, aged about 35 years who was an Govt. employee working as attendant in the Veterinary department. MAC No.50/11 arises out of Claim Case No. 54/10 in connection with the death of Deo Kumar, a minor student aged about 15 years. MAC No.85/11 arises out of Claim Case No. 51/10 in connection with the death of Gayatri Bai, aged about 27 years who was working as a labour. MAC No.94/11 arises out of Claim Case No. 56/10 in connection with the death of Dukhni Bai, aged about 29 years working as a labour. MAC No.419/10 arises out of Claim Case No. 16/09 in connection with the death of Suraj Bai, aged about 30 years working as a labour at the time of accident.

3. All the five appeals have been filed seeking for enhancement of compensation. The Tribunal while passing the award has held that the liability of the Insurance Company in each case would be maximum of rupees one lakh and the balance amount has to be paid by the owner-cum-driver of the offending vehicle.

4. Counsel for the claimants submits that the Tribunal has not taken into consideration the future prospects while quantifying the compensation. Likewise, the deduction made towards personal expenses and the multiplier applied so also the compensation under the conventional head are not in accordance with the principles laid down by the Supreme Court in the case of **Sarla Verma (Smt) and others Vs. Delhi Transport Corporation and another** reported in **(2009) 6 SCC 121** and all subsequent decisions. Thus, counsel for the claimants prayed for enhancement of the award suitably.

5. Counsel appearing for the Insurance Company, however, opposing the appeals submits that considering the total facts and circumstances of the

case the Tribunal has granted sufficient compensation and the amount being just and reasonable, it does not require any further enhancement.

6. Having considered the rival contentions put forth on either side and on perusal of the record what is reflected is that the Insurance Company in the instant case has not filed any appeal against the impugned order neither has the owner-cum-driver preferred an appeal against the said order. Thus, the liability part attains finality. What is left to be adjudicated in the present appeals is whether the quantification of compensation by the Tribunal is just and reasonable or it deserves to be enhanced.

7. In Claim Case No.50/10, deceased Rajkumar Suryavanshi aged around 35 years was working as a government employee and was earning Rs.7,000/- a month. So far as the income part in Claim Case No.50/10 is concerned, there is no doubt in the finding arrived at by the Tribunal as it is based on the salary certificate. In the other three cases i.e. Claim Case Nos. 51/10, 56/10 & 16/09, the deceased persons were working as a labour at the time of accident i.e. 12.02.2009 where the minimum income of a labour would have been Rs.3,000 to 4,500 a month. However, the Tribunal has taken only Rs.15,000/- as the yearly income which is unreasonably low and the same deserves to be suitably enhanced. Considering the facts and circumstances of the case, the amount of compensation awarded under future prospects, the multiplier used and the compensation under conventional head also deserve to be enhanced.

8. Taking into consideration the total facts and circumstances of the case, this Court has no hesitation in reaching to the conclusion that the issue of calculation of compensation has already been settled by a catena of decisions of the Hon'ble Supreme Court starting from the land mark decision in the case of Sarla Verma (supra) and all subsequent decisions. Applying the same principle and also keeping in view the recent larger Bench decision of the Supreme Court in the case of **National Insurance Company Limited**

**Vs. Pranay Sethi and Ors.** decided on 31<sup>st</sup> October, 2017 this Court proceeds to quantify the compensation accordingly.

9. So far as MAC No.284/11 which arises out of Claim Case No.50/10 pertaining to the death of Rajkumar Suryavanshi, aged around 35 years is concerned, his monthly income was assessed based on the salary slip produced i.e. Rs. Rs.7,000/- a month. Keeping in view the recent decision of the Supreme Court in the case of Pranay Sethi (supra) the claimants shall be entitled for 50% of the income towards future prospects which would bring the monthly income to Rs.10,500/- and yearly income to Rs.1,26,000/- of which if 1/3 is deducted towards personal expenses, the amount would come to Rs.84,000/-. If the said amount is multiplied applying the multiplier of 16, the amount would be Rs.13,44,000/-. Further, this Court is of the opinion that ends of justice would meet if Rs.56,000/- is awarded under the conventional head making the total compensation at Rs.14,00,000/-. It is ordered accordingly. Thus, the claimants in MAC No.284/11 shall be entitled for a total compensation of Rs.14,00,000/- in stead of Rs.4,18,000/- as awarded by the Tribunal.

10. So far as MAC No.50/11 arising out of Claim Case No. 54/10 in connection with the death of Deo Kumar, a minor student aged about 15 years is concerned, this Court is inclined to follow the decision of the Supreme Court in the case of **Kishan Gopal and another Vs. Lala and others** reported in **(2014) 1 SCC 244** wherein in a case of death of a minor child, the Supreme Court has fixed the notional income at Rs.30,000/- and applied the multiplier of 15 making the compensation towards loss of dependency at Rs.4,50,000/-. In addition, an amount of Rs.50,000/- under the conventional head has also been granted making the total compensation at Rs.5,00,000/-. In the light of the decision of the Hon'ble Supreme Court in the case of Kisan Gopal (supra) this Court is inclined to apply the same analogy while quantifying the compensation in the case of deceased Deo

Kumar who was also a 15 years old student. Thus, this Court quantifies total compensation at Rs.5,00,000/- which shall be payable to the claimants in MAC No.50/2011.

**11.** So far as MAC No.85/11 which arises out of Claim Case No. 51/10 pertaining to the death of Gayatri Bai, aged about 27 years who was working as a labour is concerned, considering the period of death i.e. Feb. 09 where the minimum income of an unskilled labour would have been nothing less than Rs.100 a day, Rs.3,000/- a month and Rs.36,000/- yearly, this Court has no hesitation in assessing Rs.36,000/- as the yearly income of the deceased and proceeds to calculate the compensation accordingly. Accepting Rs.36,000/- as the yearly income, if 30% of the said amount is added towards future prospects applying the principle laid down by the Supreme Court in the case of Pranay Sethi, the amount would be Rs.46,800/- of which if 1/3rd is deducted towards personal expenses, the amount would come to Rs.31,200/- which if multiplied applying the multiplier of 17 the amount would come to Rs.5,30,400/-. In addition, considering the facts and circumstances of the case, this Court quantifies a lump sum compensation of Rs.69,600/- under the conventional head making the total compensation at Rs.6,00,000/-. Thus, the claimants in MAC No. 85/11 shall be entitled for a total compensation of Rs.6,00,000/- in stead of Rs.1,90,000/- as awarded by the Tribunal.

**12.** As regards MAC No.94/11 which arises out of Claim Case No. 56/10 in connection with the death of Dukhni Bai, aged about 29 years where the deceased was working as a labour and was also carrying out stitching work, this Court quantifies her yearly income as Rs.36,000/- and proceeds to calculate the compensation accordingly. If 30% of the said amount is added towards future prospects, the amount reaches to Rs.46,800/- of which if 1/3 is deducted towards personal expenses, it comes to Rs.31,200/-. If the said amount is multiplied applying the multiplier of 17 the amount would be

Rs.5,30,400/-. In addition, considering the facts and circumstances of the case, this Court quantifies a lump sum compensation of Rs.69,600/- under the conventional head making the total compensation at Rs.6,00,000/-. Thus, the claimants in MAC No. 94/11 shall be entitled for a total compensation of Rs.6,00,000/- in stead of Rs.1,90,000/- as awarded by the Tribunal.

**13.** So far as MAC No.419/10 which arises out of Claim Case No. 16/09 in connection with the death of Suraj Bai, aged about 30 years working as a labour at the time of accident is concerned, this Court quantifies the yearly income at Rs.36,000/- and proceeds to calculate the compensation accordingly. If 30% of the said amount is added towards future prospects, the amount reaches to Rs.46,800/- of which if 1/3 is deducted towards personal expenses, it comes to Rs.31,200/-. If the said amount is multiplied applying the multiplier of 17, the amount would be Rs.5,30,400/-. In addition, considering the facts and circumstances of the case, this Court quantifies a lump sum compensation of Rs.69,600/- under the conventional head making the total compensation at Rs.6,00,000/-. Thus, the claimants in MAC No. 419/10 shall be entitled for a total compensation of Rs.6,00,000/- in stead of Rs.1,80,000/- as awarded by the Tribunal.

**14.** The enhanced amount in all the appeals shall carry interest at the same rate as has been fixed by the Tribunal. The liability of the insurance Company in all the five appeals as awarded by the Tribunal shall remain as it is i.e. Rs.1,00,000/- and the balance amount of compensation shall be paid by the owner and the driver of the offending vehicle.

**15.** Thus, the five appeals of the claimants stand allowed.

Sd/-  
**(P. Sam Koshy)**  
Judge