

HIGH COURT OF CHHATTISGARH AT BILASPUR**MAC No.1471 of 2009**

1. Jagadhari Singh Pottam S/o Ballaram Gond, aged about 50 years.
2. Smt.Manmati W/o Jagadhari Singh Gond, aged about 43 years.
Both are R/o Village Tendumuda Thana & Tahsil Mawahi, District Bilaspur (C.G.)

---Appellants**Versus**

1. Mohan Singh S/o Dhyan Singh Gond, aged about 25 years.
2. Ramsharan Patel S/o Baldev Patel, aged about 55 years.
Both are R/o Village Tendumuda Thana & Tahsil Mawahi, District Bilaspur (C.G.)
3. The New India Insurance Company Limited, Divisional Office Second Floor Shri Ram Tread center in front of Rajiv Plaja, Bilaspur (C.G.).

---Respondents

For appellants	:	Shri Yogendra Chaturvedi, Advocate.
For respondent No.3/ Insurance Company	:	Shri Saurabh Sharma, Advocate.

Hon'ble Shri Justice P. Sam Koshy**Order on Board****06/11/2017**

1. Present is an appeal under Section 173 of the Motor Vehicles Act assailing the award dated 17/09/2009 passed by the learned Additional Motor Accident Claims Tribunal, Pendraroad in Motor Accident Claim Case No.09/2009.
2. Vide the said impugned award, the Tribunal in a death case under Section 166 of the Motor Vehicle Act has awarded the compensation of Rs.2,45,000/- with interest @ 6% per annum from the date of application.
3. The counsel for the appellants submits, that the compensation awarded by the Tribunal is on the lower side in as much as the Tribunal has not considered the income from the future prospects while quantifying the compensation. Likewise, the multiplier applied is also on the lower side and prays for suitable enhancement of the award.
4. The counsel for the Insurance Company however opposing the appeal submits, that the Insurance Company in the instant case has been exonerated

of its liability and the responsibility of payment of compensation has been fastened upon the owner of the vehicle involved in the accident.

5. Having considered the contentions put forth on either side and on perusal of record this court is of the opinion, that considering the fact that the deceased was a young boy aged around 17 years at the relevant point of time must have been earning not more than Rs.3,000/- per month and therefore the income so assessed by the Tribunal cannot be found fault with.

6. However, considering the decision of the Hon'ble Supreme Court in the case of ***Sarla Verma & Ors. Vs. Delhi Transport Corporation & Anr. [{2009} 6 SCC 121]*** as also in all the subsequent decisions, the income under future prospects has become an integral part of the award under the Motor Vehicle Act and in the instant case considering the age of the deceased and also keeping in view the decision of the Supreme Court in the case of ***National Insurance Company Limited Vs. Pranay Sethi & Ors. (SLP Civil No. 25590/2014, decided on 31/10/2017)***, the claimants shall be entitled for 40% of its income towards future prospects.

7. Accepting Rs.36,000/- as the yearly income of the deceased and adding 40% of the same i.e. Rs.14,400/- towards future prospects, the amount would become Rs.50,400/- of which if half of the same is deducted towards personal expenses as the deceased was a bachelor, the amount would come to Rs.25,200/- which if multiplied by applying multiplier of 18, the amount would become Rs.4,53,600/-. It is ordered accordingly, that the claimants shall be entitled for the compensation of Rs.4,53,600/- towards loss of dependency.

8. So far as the compensation under the conventional head is concerned, again following the decision of the Supreme Court in the case of Pranay Sethi (Supra), this court quantifies the amount at Rs.70,000/- under this head. Thus, the total compensation payable to the claimants would become Rs.5,23,600/- instead of Rs.2,45,000/- as awarded by the Tribunal. The said enhanced amount shall also carry interest at the same rate as has been awarded by the Tribunal.

9. The said amount shall be payable by the owner cum driver of the Tractor as is the finding of the Tribunal which remains intact.
10. The appeal stands allowed and disposed off.

Sumit

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