

**HIGH COURT OF CHHATTISGARH AT BILASPUR****MAC No.1596 of 2015**

1. Smt.Pushpa Suleman Wd/o Kripalu Suleman, aged about 35 years.
  2. Master Ansh S/o Late Kripalu Suleman, aged about 10 years.
  3. Miss Awantika D/o Late Kripalu Suleman, aged about 08 years.
  4. Miss Anamika D/o Late Kripalu Suleman, aged about 06 years.
  5. Smt.Sahadevi Wd/o Mongara Suleman, aged about 60 years.
- Appellant Nos. 2 to 4 are minor through their mother Smt.Pushpa Suleman (Appellant No.1).

All are R/o Village Kasturi Gadwaguda Para Post and P.S. Nagarnar Tahsil Jagdalpur, District Bastar (C.G.).

**---Appellants**

**Versus**

1. Stifanchand Masih S/o Premchand Masih, aged about 37 years, R/o Kerala Masih Para P.S. Kodenga, District Navrangpur (Orissa) Presently R/o Ghandhi Nagar Ward, Gangamundapara Behind Mahatma Gandhi School, Makadumshah, Advocate Lane, Jagdalpur, District Bastar(C.G.).
2. National Insurance Co.Ltd.Through Branch Manager, Above Central Bank, Jagdalpur, District Bastar (C.G.).

**---Respondents**

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| For appellants                       | : | Shri A.L.Singroul, Advocate. |
| For resp.No.2/<br>Insurance Company. | : | Shri Ratan Pusty, Advocate.  |

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

**Order on Board**

**15/11/2017**

1. Present is an appeal by the claimants under Section 173 of the Motor Vehicles Act assailing the award dated 30/09/2015 passed by the learned 3rd Additional Motor Accident Claims Tribunal, Bastar, at Jagdalpur (C.G.) in Claim Case No.31/2015.

2. Vide the impugned award, the Tribunal in a death case under Section 166 of the Motor Vehicles Act has awarded a compensation of Rs.6,34,800/- with interest @ 9% per annum from the date of application.

3. The counsel for the appellants submits, that the Tribunal in the instant case has not granted income under future prospects while quantifying the compensation so also the compensation under the conventional head is also on the lower side and thus prayed for suitable enhancement of the award.

4. The counsel for the Insurance Company submits, that the appellants in the instant case has got sufficient compensation as the deduction made was 1/5th which ought to had been 1/4th considering the principles of law laid down by the Hon'ble Supreme Court in the case of **Sarla Verma & Ors. Vs. Delhi Transport Corporation & Anr. [2009} 6 SCC 121]** and all subsequent decisions. If 1/4th is taken into consideration, the amount of compensation may get further reduced and thus prayed for the rejection of the appeal.

5. Having heard the contentions put forth on either side and on perusal of record, since, the material facts are not in dispute so far as the accident, the resultant death and the vehicle involved in the accident so also the vehicle being duly insured. The only issue left to decide is, whether the award passed is just and reasonable or not? This court finds, that the income assessed by the Tribunal at Rs.4,500/- to be just and reasonable.

6. Further in the light of the recent larger bench decision of the Hon'ble 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 would also be entitled for 25% of the income towards future prospects.

7. Accepting Rs.4,500/- as the monthly income of the deceased, the yearly income would be Rs.54,000/- of which if 25% is added towards future prospects, the amount would come to Rs.67,500/- of which if 1/4th is deducted towards personal expenses instead of 1/5th as has been taken by the Tribunal, the amount would come to Rs.50,625/- which if multiplied by applying multiplier of 14, the amount would come to Rs.7,08,750/-. It is ordered accordingly that the claimants shall be entitled for compensation of Rs.7,08,750/- towards loss of dependency. In addition, the claimants shall also be entitled for a lump sum compensation of Rs.70,000/- under the conventional head instead of Rs.30,000/- as assessed by the Tribunal. Thus, making the total compensation payable to the claimants at Rs.7,78,750/- instead of Rs.6,34,800/-. The said enhanced amount shall also carry interest at the same rate as has been awarded by the Tribunal.

8. The appeal stands allowed and disposed off.

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