

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR****MAC No. 1179 of 2015**

1. Smt. Sukbati Wd/o Late Dayaluram, Aged About 35 Years Caste Gond,
2. Minor Kamlesh Kumar S/o Late Dayaluram, Aged About 15 Years Caste Gond
3. Minor Ku. Kritika D/o Late Dayaluram, Aged About 12 Years Caste Gond
4. Minor Ku. Satyabhama D/o Late Dayaluram, Aged About 10 Years Caste Gond
5. Minor Ku. Saniya D/o Late Dayaluram, Caste Gond Aged About 8 Years

No.2 to 5 are minor, through Natural Guardian Mother Smt. Sukbati Wd/o Late Dayaluram, Caste Gond, All are R/o Village Khurshitikur ( Jabkohda ) Tahsil Dondi, District Balod, Chhattisgarh .....(Claimants)

**---- Appellants****Versus**

1. Bajrangi Yadav S/o Nankuram Yadav, R/o Bhikhampur, Police Station Ashpur ( Devsara ) District Pratapgarh ( Uttar Pradesh )
2. Samar Bahadur Yadav S/o Mahantraj Yadav, R/o Kumharpara, Talapara, Bilaspur, District Bilaspur, Chhattisgarh
3. National Insurance Company Limited, Through Branch Manager, Branch Office, Bilaspur, District- Bilaspur, Chhattisgarh

**---- Respondents**


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|---------------------|---|-------------------------|
| For Appellants      | : | Shri BP Singh, Advocate |
| For Respondent No.3 | : | Shri RN Pusty, Advocate |

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**Hon'ble Shri Justice Goutam Bhaduri****Order On Board****31/07/2017**

1. The appeal is against the award dated 09.04.2015 passed by the Motor Accident Claims Tribunal, Balod, in Claim Case No.1200044/2014, whereby an award of Rs.6,90,000/- was granted to the wife and children of the

deceased.

2. As per the claimants case, on 26.02.2014 the deceased Dayalu Ram and his wife Sukbati were going on their bicycle to Charama, near Naina River, a Truck, which was being driven by respondent No.1 in a rash and negligent manner dashed the deceased, whereby he died on the spot. It was stated that at the time of death, the deceased was 40 years of age and was working as mason and used to earn Rs.250/- per day and claimants were completely dependent on the deceased; thereby, an amount of Rs.21,50,000/- was claimed.
3. Learned counsel for the appellants would submit that the assessment of the income has not been properly made. He further submits that the compensation awarded is too meager despite the incident happened in 2014 and reasonable amount of Rs.250/- per day was stated to be earned by the deceased. It is further submitted that only Rs.5000/- has been held to be the monthly income of the deceased and the multiplier has not been correctly applied and future prospects has not been awarded. Considering the same, the amount may be enhanced suitably.
4. Per contra, learned counsel appearing on behalf of the Insurance Company supported the award and would submit that the award is well merited, which do not call for any interference.
5. Learned Tribunal by its award held that at the relevant time a Truck which was bearing registration No. GJ-05-AZ-1609 being driven by respondent No.1 and insured with the National Insurance Company. Consequently, the insurer was held liable to make good the compensation. The said finding is not under challenge, therefore, the appeal is confined to the quantum of award only.
6. The learned Tribunal by its award has held the monthly income of the

deceased to be Rs.5000/-, however, it appears that no future prospects has been awarded. Taking into consideration the law laid down by the Supreme Court in the matter of **Rajesh & Others Vs. Rajbir Singh & Others**<sup>1</sup>, there would be an addition of 30% in the future prospects as the deceased is aged about 40 years. Thus, the total income of the deceased would become Rs.6500/-. The claim petition appears to have been filed by the mother and four minor children, thereby number of claimants comes to five, as such, as per the law laid down in the case of **Sarla Verma (Smt) and Others Vs. Delhi Transport Corporation and another**<sup>2</sup> 1/4th is to be deducted as personal expenses and since the age of the deceased is stated to be about 40 years, therefore, the multiplier of 15 would be applicable, therefore, the total assessment comes to Rs.4875x12x15 = Rs.877500/-. Under other heads, the Tribunal has awarded Rs.5000/- for funeral expenses, Rs.5000/- for loss of love and affection, Rs.5000/- for loss of consortium, which appears to be very low and meager. Therefore, Rs.1,00,000/- is granted for loss of consortium to the wife, Rs.50,000/- each is awarded for loss of love & affection to four minor children and for loss of estate Rs.50,000/- in total and Rs.25,000/- is awarded for funeral expenses. Thereby, total amount comes to Rs.12,52,500/-.

7. Therefore, the calculation would be assessed as under :

| S.N. | Heads                                                                                         | Calculation                   |
|------|-----------------------------------------------------------------------------------------------|-------------------------------|
| (i)  | Notional income @ Rs.5000/- per month plus 30% of the income to be added as future prospects. | Rs.5000 + 1500 =<br>Rs.6500/- |
| (ii) | 1/4th of (i) above to be deducted as personal expenses which comes to                         | Rs. 6500-1625 =<br>Rs. 4875/- |

1(2013) 9 SCC 54

2 (2009) 6 SCC 121

|       |                                                                              |                                    |
|-------|------------------------------------------------------------------------------|------------------------------------|
| (iii) | Annual Dependency comes                                                      | Rs. 4875 x 12 =<br>Rs. 58,500/-    |
| (iv)  | Compensation after multiplier of 15 is applied.                              | Rs. 58500 x 15 =<br>Rs. 8,77,500/- |
| (v)   | Loss of consortium to the wife.                                              | Rs. 1,00,000/-                     |
| (vi)  | For loss of love and affection to the four minor children @ Rs.50,000/- each | Rs. 2,00,000/-                     |
| (vii) | For loss of estate                                                           | Rs. 50,000/-                       |
| (VII) | For funeral Expenses                                                         | Rs. 25,000/-                       |
|       | Total                                                                        | <b>Rs. 12,52,500/-</b>             |

8. Thus, the total compensation is recomputed as Rs.12,52,500/-. After deducting Rs.6,90,000/- as awarded by the learned Claims Tribunal, the enhancement would be Rs.5,62,500/-.

9. In the result, the appeal is partly allowed. The claimants will be entitled to the said sum of Rs.5,62,500/- in addition to what is already awarded by the Claims Tribunal. The amount shall carry interest @ 6% per annum from the date of filing of the claim petition till the date of its realization.

10. So far as it relates to apportionment, each of the minor children shall also get Rs.75,000/- and remaining amount shall be distributed to the wife. Registry is further directed to communicate the quantum of enhancement to the claimants in Hindi Deonagari language which may be communicated through Gram Panchayat of the concerned village wherein appellants are presently residing. The Legal Aid Committee of the area shall also ensure the payment of compensation to the appellants.

**Sd/-**  
**(Goutam Bhaduri)**  
Judge

Ashu