

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Misc. Appeal (C) No. 87 of 2013**

1. William David S/o Late P.A. David, aged about 52 years, R/o Ganesh Ward No. 8, Tah. and P.S. Dongargarh, Distt. Rajnandgaon (C.G.)
2. Shanti Lata David W/o Mr. William David, aged about 45 years, R/o Ganesh Ward No. 8, Tah. and P.S. Dongargarh, Distt. Rajnandgaon (C.G.)
3. Jospina David D/o Mr. William David, aged about 20 years, R/o Ganesh Ward No. 8, Tah. and P.S. Dongargarh, Distt. Rajnandgaon (C.G.)

---- Appellants**Versus**

1. Mansingh S/o Budhram, aged about 45 years, R/o Ward No. 19, Subhash Ward Dongargarh, Tah. and P.S. Dongargarh, Distt. Rajnandgaon C.G. (driver of the vehicle)
2. Ujagar Singh S/o Jogendar Singh, aged about 40 years, R/o Village-Khandupara Dongargarh, P.S. and Tah. Dongargarh, Distt. Rajnandgaon C.G. (registered owner of the vehicle)
3. Jones David S/o P.A. David, aged about 45 years, R/o Ganesh Ward No. 8, Dongargarh, P.S. and Tah. Dongargarh, Distt. Rajnandgaon C.G. (real owner of the vehicle)
4. Royal Sundaram Allianz Insurance Company Limited, Krishna Vanijya Bhavan, 1st Floor, Devendra Nagar, Tah. and Distt. Raipur (C.G.)

---- Respondents

For Appellants	:	Shri R. K. Pali, Advocate
For Respondent no.4	:	Shri Rohitashav Singh, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order On Board****07/12/2017**

Present is an claimants' appeal under Section 173 of the Motor Vehicles Act assailing the award dated 10.10.2012 passed by the Additional Motor Accident Claims link Tribunal, Dongargarh, District Rajnandgaon (CG)

in Motor Accident Claim Case No. 13 of 2011. Vide the impugned award, the Tribunal, in a death case under Section 166 of MV Act, has awarded a compensation of Rs.1,62,500/- with interest @ 6% per annum from the date of application.

2. Counsel for the appellants submits that the compensation awarded by the Tribunal is on the lower side as the income assessed considering the period of accident is on the lower side. He submits that the multiplier applied is also not in accordance with the judgment of the supreme Court in the case of **Sarla Verma (Smt) and others Vs. Delhi Transport Corporation and another** reported in **(2009) 6 SCC 121**. Further the claimants would be entitled for compensation under the conventional head and the income under the future prospects should have been kept in mind while computing the compensation. Thus, prayed for enhancement of the compensation suitably.

3. Counsel for the Insurance Company, however, opposing the appeal submits that the Tribunal has been fair and reasonable while awarding the compensation and therefore, the impugned award being fair and just, does not warrant any interference.

4. Having heard the counsel for the parties and on perusal of the record, the undisputed facts are the date of accident, the resultant death of Vicky @ Jeorge Devid, the vehicle involved in the accident and the same duly insured by respondent no.4 Insurance Company. The age of the deceased being 19 years is also not in dispute. The date of death in the instant case is October, 2010. This Court has no hesitation in reaching to the conclusion that in 2010 even an unskilled labour would have been earned rupees 150 to 200 a day i.e. 4,500 to 6,000/- a month. Thus, this Court assesses the income of the deceased at Rs.4,500/- a month in stead of Rs.3000 as assessed by the Tribunal. In the light of the recent decision of the Supreme Court in the case

of **National Insurance Company Limited Vs. Pranay Sethi and Ors.** decided on 31st October, 2017, the claimants would also be entitled for 40% of the income towards future prospects which would make the monthly income of the deceased at Rs.6,300/- and yearly income Rs.75,600/-. If 50% of the said amount is deducted towards personal expenses, the amount comes to Rs.37,800/- which if multiplied applying the multiplier of 18 shall bring the figure to Rs.6,80,400/- as compensation towards loss of dependency. In addition, the claimants shall also be entitled for a lump sum compensation of Rs.40,000/- under the conventional head making the claimants entitled for a total compensation of Rs.7,20,400/- in stead of Rs.1,62,500/- as awarded by the Tribunal. The enhanced amount shall also carry interest at the same rate as has been fixed by the Tribunal.

5. The present appeal thus stands allowed.

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