

NAFR

HIGH COURT of CHHATTISGARH, BILASPUR**MAC No. 780 of 2013**

Dhawal Baghel S/o Late Ajay Baghel Aged About 21 Years R/o House No. 59, Gol Chowk, Behind Sahnai Garden, Rohinipuram, P.S. D.D. Nagar, Raipur, Tahsil and Distt. Raipur C.G.

---- Appellant**Versus**

1. Rasil Singh S/o Singara Singh R/o C.G.R. Transport, Ring Road No. 1, Tatibandh, P.S. Amanaka, Raipur, Tah. and Distt. Raipur C.G.
2. Mahinder Singh S/o Sardar Hardayal Singh R/o C.G.R. Transport, Ring Road No. 1, Tatibandh, P.S. Amanaka, Raipur, Tah. and Distt. Raipur C.G.
3. I.C.I.C.I. Lombard General Insu.Co.Ltd. Thru- Branch Manager, Branch Office, Lal Ganga Shopping Mall, G.E. Road, Raipur, Distt. Raipur C.G.
4. Mukesh Kumar S/o Umend Ram Aged About 21 Years R/o Village & Post-Nawagaon, Tah. Dongargarh, Distt. Rajnandgaon C.G.
5. Mohammad Vakil Ahmad S/o Mohammad Nawab Ahmad R/o 5/1, Ispat Nagar, Risali Sector, Bhilai, Distt. Durg C.G.
6. The National Insurance Co.Ltd. Through- Divisional Manager, Divisional Office, Mobin Mahal, G.E. Road, Raipur C.G.

---- Respondents

For Appellant	:	Shri Pawan Kesharwani and Ms. Swati Upadhyay, Advocates.
For respondent No.3	:	Shri Amrito Das, Advocate.
For respondent No.6	:	Shri Raj Awasthi, Advocate.

SB: Hon'ble Shri Justice P. Sam Koshy**Order On Board****22.11.2017**

1. The present appeal under Section 173 of the Motor Vehicles Act has been filed by the claimant seeking enhancement of compensation against the award dated 09.05.2013 passed by the 5th Additional Motor Accident Claims Tribunal, Raipur (in short, the Tribunal) in Claim Case No.08/2013. Vide the said impugned award, the Tribunal in a death case has awarded a compensation of Rs.13,67,868/- to the claimant along with interest @ 6 percent per annum from the date of application.

2. Learned counsel for the appellant-claimant submits that the calculation made is not in accordance with the principles laid down by the Supreme Court in case of Sarla Verma & Ors. Vs. Delhi Transport Corporation and Anr. 2009 (6)SCC 121 inasmuch as the compensation under future prospects has not been awarded and the deduction made is also not proper. Further, the compensation paid under the conventional head is also on lower side and thus prayed for suitable enhancement of compensation.
3. The counsel for the respondents however opposing the appeal submits that the amount of compensation awarded seems to be just and reasonable and is based upon the evidence which have come on record and thus prayed for rejection of the appeal.
4. That, on perusal of records, this court finds that there is sufficient force in the submissions made by the claimant inasmuch as if we apply the principle as has been laid down in case of Sarla Verma (Supra), it would clearly reflect that deduction towards personal expenses made should had been 1/3rd instead of $\frac{1}{2}$ as assessed by the Tribunal. Likewise, so far as future prospects is concerned, this court is of the opinion that keeping in view the decision of larger Bench of Supreme Court in case of National Insurance Co. Ltd. Vs. Pranay Sethi, decided on 31.10.2017 in SLP(C)No.25590 of 2014, the claimant shall also be entitled for 50 percent of the income towards future prospects.
5. Accordingly, accepting the monthly income of the deceased at Rs.20,497/- the yearly income would be Rs.2,45,964/-of which if

1/3rd is deducted towards personal expenses, the amount would come to Rs.1,63,976/-to which if 50 percent is added towards future prospects, the income would reach to Rs.2,45,964/-, which if multiplied applying the multiplier of 11, the compensation would reach to Rs.27,05,604/-. Thus, it is ordered that the claimant shall be entitled for Rs.27,05,604/- for loss of dependency.

6. Further, this court is of the opinion that the claimant shall also be entitled for a lump sum compensation of Rs.70,000/- under conventional heads. Thus, the total compensation payable to the claimant would become Rs.27,75,604/-. It is ordered accordingly that the claimant shall be entitled for a total compensation of Rs.27,75,604/- instead of Rs.13,67,868/- as awarded by the Tribunal.
7. The enhanced amount of compensation shall also carry interest at the same rate as awarded by the Tribunal. Rest of the conditions mentioned in the award shall remain intact.
8. Accordingly, the appeal stands allowed and disposed of.

Sd/-
(P.Sam Koshy)
Judge