

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No.1203 of 2013**

1. Gajendra Kumar Bhediya S/o Khilanand Bhediya, aged about 59 years
2. Smt. Shivkumari W/o Gajendra Kumar Bhediya, aged about 55 years.
Both R/o village Peeparchhedi, Post Charwahi, Police Station, Tahsil & District-Balod (CG)

---- Appellants

Versus

1. Chetan Nag S/o Asun Nag, aged about 27 years, R/o village Barkai, Chowki Dudhawa, Police Station and Tahsi Narharpur, District Kanker (CG)
2. Bhanupratap Sahu S/o Bishal Ram Sahu, R/o Dudhawa, Police Station and Tahsil Narhapur, District Kanker (CG)
3. The Oriental Insurance Company Limited, through Branch Manager, Branch Office-M.B. Trade Centre, 2nd Floor, Ghadi Chowk, Dhamtari, District Dhamtari (CG)
4. National Insurance Company Limited, Central Bank, near R.M.S. Office, Jagdalpur, Tahsil and District Jagdalpur (CG)

---- Respondents

For Appellants	:	Mr.A.L.Singraul, Advocate
For Respondent No.3	:	Mr.N.K.Malviya, Advocate
For Respondent No.4	:	Mr.R.N.Pusty, Advocate

Hon'ble Shri Justice Sanjay K. Agrawal**Order on Board**17/7/2017

1. This is claimants' appeal seeking enhancement of compensation awarded by the Motor Accident Claims Tribunal, Uttar Bastar Kanker (hereinafter called as 'the Tribunal') in Claim Case No.12//2013 vide its award dated 22.11.2013.
2. As against the compensation of ₹ 46,50,000/- claimed by unfortunate parents of deceased-Upendra Bhediya by filing claim petition under Section 166 of the Motor Vehicles Act, 1988 (hereinafter called as 'the Act') for his death in an accident on 19.10.2011, the Tribunal awarded a total sum of ₹ 13,48,110/- to the claimants along with interest @ 6%

per annum from the date of filing of claim petition till realisation, against which, this appeal has been filed.

3. Learned counsel for the appellants would submit that the appellants/claimants will be entitled for 50% towards future prospects replying upon the judgment of the Supreme Court in the matter of **Rajesh and others Vs. Rajbir Singh and others**¹.
4. On the other hand, learned counsel for respondent No.3 would submit that compensation awarded to the appellants is just and proper and no interference is called for.
5. I have heard learned counsel appearing for the parties, considered their rival submissions made hereinabove and also gone through the record with utmost circumspection.
6. It is not in dispute that the deceased was working as Constable in the Home Department. The Tribunal has taken the income of the deceased as ₹ 14,279/- per month.
7. In the matter of **Sarla Verma (Smt) and others Vs. Delhi Transport Corporation and another**² the Supreme Court has held that in addition of 50% of actual salary to the actual salary income of the deceased towards future prospects is admissible where the deceased had a permanent job and was below 40 years.
8. In the present case, admittedly, the deceased was aged about 32 years on the date of incident and was working as Constable in Home Department, therefore, he would be entitled for 50% of the actual salary as future prospects i.e. ₹ 14279+7139=₹21,418/- and after deducting 1/2 towards personal expenses from Rs.21,418/-, monthly dependency would be ₹ 10,709/- and annual dependency would be

1 (2013) 9 SCC 54

2 (2009) 6 SCC 121

₹ 1,28,508/-.

9. By multiplying the claimants' annual dependency of ₹1,28,508/- with the multiplier of 15, which would be appropriate looking to the age of the claimants, the amount of compensation on account of loss of dependency would be ₹19,27,620/-. There shall be no change in other heads.

10. For the foregoing reasons, the appeal filed by the claimants for enhancement of compensation is allowed in part. The total compensation of ₹ 13,48,110/- awarded by the Tribunal is enhanced to ₹ 19,27,620/-. The claimants are further entitled to receive ₹ 5,79,510/- over and above the amount awarded by the Tribunal from respondent No.3. Enhanced amount of ₹ 5,79,510/- shall carry interest @ 6% per annum from the date of filing of claim petition till realisation. Rest of the conditions mentioned in the award shall remain intact.

Sd/-

(Sanjay K. Agrawal)
Judge

B/-