NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MAC No. 477 of 2017

Branch Manager, Bajaj Allianz General Insurance Company Limited Shivmangal Bhawan, Pandri, Police Station Mova-Pandri, Civil & Revenue District Raipur, Chhattisgarh ....(Insurer Of Car No. C.G.06 L 0525)

---- Petitioner

Versus

1. Smt. Laxmibai Wd/o Late Dashrath Baghel, Aged About 35 Years R/o Village Devda, Post Lakhauli, Thana Arang, Distt. Raipur, Chhattisgarh .... (Claimant)
2. Divas Bothra Urf Dhivsha Kumar S/o Dilip Kumar Bothra, (Jain Mobile Swami Chawck, Mahasamund) R/o Ward No.20, Mahavir Colony, Mahasamund, Thana And Distt. Mahasamund, Chhattisgarh ....(Driver Of Car No. C.G.06 L 0525)
3. Smt. Meena Luniya W/o Shri Bhikham Luniya, R/o College Road, Mahasamund, District Mahasamund, Chhattisgarh ....(Owner Of Car No. C.G.06 L 0525)

---- Respondents

For Appellant	:	Shri Rohitashva Singh, Advocate
For respondent-Claimant	:	Shri J.A. Lohani, Advocate

S.B. Hon'ble Shri Justice P. Sam Koshy

Order On Board

07/07/2017

Heard.

1. This appeal under Section 173 of the Motor Vehicles Act, 1988 has been filed by the appellant- Insurance Company assailing legality and correctness of the Award dated 3.01.2017 passed by learned 2nd Additional Motor Accidents Claims Tribunal, Mahasamund in Claim Case No. H-33/2016.

2. The sole challenge to the award is on the quantum part. According to learned counsel for the appellant-Insurance Company, the compensation calculated is bad to the extent that the Court below has not followed the guidelines laid down by the Supreme Court in the case of **Sarla Verma** (Smt.) **& Ors. Vs. Delhi**

State Transport Corporation & Anr. (2009) 6 SCC 121, for the purpose of calculating compensation payable in a case where deceased was a bachelor and the claimant being the parents. According to learned counsel for the appellant, as per judgment in the case of **Sarla Verma** (supra), the deduction, when the deceased is a bachelor and the claimants are the parents, has to be 50% towards his personal expenses, however, in the instant case, the Tribunal deducted only 1/3rd amount and, therefore, the impugned award deserves to be modified to that extent. It is further argued that amount awarded under the head of future prospects is also bad in law, taking into consideration the order passed by Hon'ble the Supreme Court in the case of **Chikkamma and Anr. Vs. Parvathamma & Anr.** in Civil Appeal No.3409 of 2017 dated 28.2.2017.

3. So far as the first ground raised by the appellant is concerned, this Court is in full agreement with the contention of learned counsel for the appellant. The law in this regard has been settled by the Supreme Court in the case of **Sarla Verma** (supra), wherein para-31 of the judgment specifically envisages that in the event the deceased being bachelor and the claimant being the parents, normally 50% should be deducted towards personal expenses from the wages derived by the deceased. Therefore, the impugned award deserves to be modified to that extent. However, in so far as calculation of future prospect of the deceased is concerned, this Court is of the opinion that the said finding of the Tribunal cannot be altered in view of what has been laid down by the Supreme Court in the case of **Rajesh and Ors. Vs. Rajbir Singh & Ors.** (2013) 9 SCC 54, wherein this issue has been decided squarely.

4. In view of the above, this Court is of the considered opinion that the impugned award to the extent as stated above deserves modification by deducting 50% of the wages derived by the deceased towards personal expenses. In the instant case, the monthly income that has been taken into consideration by the Tribunal is Rs.7,065/- and after deducting 50% of the personal expenses, the amount comes to Rs.3532.50/-. If the same is multiplied by 12, it comes to Rs.42,390/- which would be the annual income of the deceased. If the said amount is further multiplied by the multiplier of 17, the amount reaches to Rs.7,20,630/-.

5. In view of the same, the appeal preferred by the appellant –Insurance Company is partly allowed and the impugned award stands modified to the extent that the amount of loss of income and dependency would be **Rs.7,20,630/-** instead of **Rs.9,60,840/-** which has been awarded by the Tribunal. The amount awarded

under the other head i.e. Rs.1,00,000/- for loss of love & affection and Rs.25,000/- for funeral expenses as also the interest awarded, would all remain intact.

6. The appellant-Insurance Company are directed to comply with the order which is now being passed by this Court forthwith within a period of 2 months from today.

Sd/-
(P. Sam Koshy)
Judge

Praveen