

HIGH COURT OF CHHATTISGARH, BILASPUR

Judgment reserved on: 07/09/2018

Judgment delivered on : 24/10/2018

MA No. 1119 of 2004

1. Ramawatar Agrawal, S/o Shri Nandlal Ji Agrawal, aged about 44 years,

2. Smt. Premlata Devi, W/o Shri Ramawatar, aged about 40 years,

Both R/o Behind Shitala Mandir, Near Muktidham Naya Sarkanda, Tahsil and Distt. Bilaspur (CG)

---- Appellants

Claimants

Versus

1. Ravi Naik S/o Ram Singh Naik, aged about 28 years, R/o Naik para, Post & Tahsil Basana, Distt. Mahasamund (CG) – Driver.

2. Suresh Kumar S/o Shri Durga Prasad Agrawal, aged about 42 years, R/o Saraipali, PS Saraipali, Distt. Mahasamund (CG) – Owner.

3. The Oriental Insurance Co. Ltd. through Branch Manager, Branch Office, Kachahari Chowk, Madina Manjil, Raipur (CG) – Insurer.

---- Respondent

For Appellants	:	Shri PK Tulsyan, Advocate.
For Respondent No.3	:	Shri Sudhir Agrawal, Advocate.

Hon'ble Shri Gautam Chourdiya, J

C A V Judgment

The claimants have preferred this appeal against the award dated 12th August, 2004 passed by Additional Motor Accident Claims Tribunal, Bilaspur in Claim Case No.65/2002 whereby the Tribunal has awarded compensation of Rs.3.70 lacs.

02. As per the claimants, in an accident occurred on 31.5.2002, their son namely Vikas Kumar, aged 22 years, earning Rs.5000/- by working in a medical stores, suffered grievous injuries on being dashed by vehicle Truck bearing No. CG 04 ZC 2189 driven by respondent No.1 in a rash and negligent manner and ultimately died during the course of treatment. At the relevant time, the said vehicle was owned by respondent No.2 and insured with respondent No.3.

03. On claim petition being filed by the appellants/claimants, parents of the deceased, under Section 166 of the Motor Vehicles Act, the learned Tribunal considering the evidence available on record granted compensation of Rs.3.70 lacs in favour of the claimants with interest @ 6% p.a. from the date of application till realization, fastening the liability on respondent No.3/insurance company.

04. Learned counsel for the appellants submits that the Tribunal has wrongly assessed the income of the deceased at Rs.15,000/- per annum whereas he was earning Rs.4000/- per month as per documents filed by the claimants. Further, the Tribunal has erred in applying multiplier of 17 whereas in view of judgment of the Hon'ble Supreme Court in the case of **Sarla Verma & others Vs. Delhi Transport Corporation, (2009) 6 SCC 121**, considering the age of the deceased, multiplier of 18 was applicable. He submits that no amount towards future prospects has been granted by the Tribunal and in view of decision of the Hon'ble Supreme Court in **National Insurance Co. Ltd. Vs. Pranay Sethi, (2017) 16 SCC 680**, 40% of his annual income should have been added towards future prospects. Further, the Tribunal has wrongly assessed the medical expenses at Rs.2 lacs only whereas the actual expenses incurred is Rs.12-13 lacs. Lastly he submits that under the conventional heads also suitable amount may be granted to the claimants.

05. On the other hand, learned counsel for respondent No.3 supporting the impugned award submits that the award passed by the Tribunal is just and proper and needs no interference by this Court in the instant appeal.

06. Heard learned counsel for the parties and perused the material available on record.

07. Though the claimants have pleaded income of the deceased as Rs.4000/- per month and filed document in this regard also, however, the same has not been proved by them. The Tribunal has taken the income as Rs.15,000/- per annum, but considering the age of the deceased, the nature of job which he was doing, the fact that the incident occurred in the year 2002, the price index at the relevant time, the income of the deceased can safely be taken as Rs.24,000/- per annum. In this case, the age of the deceased is 22 years, he was unmarried and the claimants are parents. The amount towards medical expenses has been jointly worked out by both the counsel at Rs.8.50 lacs after due verification of the documents Ex.A/22 to A/129. Thus, keeping in view decisions of the Hon'ble Supreme Court in the matters of *Sarla Verma* and *Pranay Sethi* (supra), the compensation is being recalculated as under:

Sl. No.	Heads	Calculation
01.	Income of the deceased	Rs.24,000/- per annum
02.	40% of (i) above to be added towards future prospects	(24,000 + 9,600) = Rs.33,600/-
03.	50% deduction towards personal and living expenses of the deceased	(33,600 – 16,800) = Rs.16,800/-
04.	Multiplier of 18 to be applied	Rs.16,800 x 18 = Rs.3,02,400/-
05.	For Medical Expenses	Rs.8,50,000/-
06.	Towards loss of estate and for funeral expenses	Rs.30,000/-
	Total compensation	Rs.11,82,400/-

08. In the result, the appeal is allowed in part. Since the Tribunal has already awarded Rs.3.70 lacs, after deducting the same from the above amount, the claimants are held entitled for additional compensation of Rs.8,12,400/- with interest @ 6% per annum from the date of application till realization. The impugned award stands modified to the above extent. However, rest of the conditions of the impugned award shall remain intact.

Sd/

(Gautam Chourdiya)

Judge

Khan