

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 495 of 2014**

1. Smt. Anita Pal Wd/o Late Babulal Pal Aged About 50 Years
2. Rani Pal S/o Late Babulal Pal (Mashih) Aged About 24 Years
3. Jivan @ Manoj Pal S/o Late Babulal Pal (Mashih) Aged About 22 Years
4. Sunita D/o Late Babulal Pal (Mashih) Aged About 18 Years
5. Yakub S/o Late Babulal Pal (Mashih) Aged About 16 Years
6. Sushmita D/o Late Babulal Pal (Mashih) Aged About 14 Years
7. Ritu D/o Late Babulal Pal (Mashih) Aged About 12 Years

Appellant Nos. 5 to 7 are minor hence impleaded through their natural guardian appellant no. Smt. Anita Pal

All are R/o Himachal Ice Crime Factory, Gali No. 01, Telibandha, Raipur, Distt. Raipur C.G., District : Raipur, Chhattisgarh

----Appellants**Versus**

1. Madhav Hans S/o Dashrathi Hans Aged About 35 Years R/o 1 Dudkela, P.S. Golmunda, Distt. Kahahandi, Orisa, Through- Agrasen Nayak, S/o Joduram Nayak, R/o Near Banti Cloths Market, Parwati Nagar, P.S. Pandri, Distt. Raipur C.G.
2. Agrasen Nayak S/o Joduram Nayak R/o 1 Near Banti Cloths Market, Parwati Nagar, P.S. Pandri, Distt. Raipur C,G, Vijay Nagar, Awanti Nagar, Telibandha, P.S. Telibandha, Raipur C.G.
3. The New India Insurance Company Pvt.Ltd. Through - Divisional Manager, The New India Insu.Co.Pvt.Ltd., Kachari Chowk, Raipur C.G.

---- Respondents

For Appellants	Shri Amiyakant Tiwari, Advocate.
For Respondent No.3	Shri Samir Singh, Advocate.

Hon'ble Shri Justice Gautam Chourdiya**Order On Board****03/12/2018**

1. This appeal is by the claimants against the award dated 21.10.2013

passed by Chief Motor Accident Claims Tribunal, Raipur, C.G. in Claim Case No.207/2011 awarding total compensation of Rs.5,66,000/- with interest @ 6 per annum from the date of application till realization, fastening liability on the non-applicants jointly and severally.

2. As per claim petition, on 14.05.2011 deceased Babulal aged about 60 years, earning Rs.6000/- per month working as Pipe Fitter, died in the motor vehicular accident caused due to rash and negligent driving of Auto bearing registration no. CG04/UT/2370 by non-applicant No.1.
3. On claim petition being filed by the claimants under Section 166 of the Motor Vehicles Act, the Tribunal considering the evidence led by both the parties passed an award as mentioned above.
04. Learned counsel for the appellants/claimants submits as under:
 - (i) that income of the deceased has wrongly been considered by the Tribunal as Rs.3000/- whereas it should have been Rs.6000/-.
 - (ii) that 1/4th deduction towards personal and living is also against the law and it should have been 1/5th.
 - (iii) that no amount towards future prospect has been granted to the claimants.
 - (iv) that Tribunal has awarded 6% simple interest in place of 9%.

In support of above contention, reliance has been placed on the decisions of the Hon'ble Supreme Court in the matters of ***Smt. Sarla Verma and others VS. Delhi Transport Corporation and another, (2009) 6 SCC 121, National Insurance Co. Ltd. Vs. Pranay Sethi, (2017) 16 SCC 680.***

05. On the other hand, learned counsel for the respondent/insurance company supports the impugned award and submits that the Tribunal considering all the relevant aspects of the matters has rightly awarded compensation which needs no interference by this Court.

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

07. As regards income of the deceased, though the claimants have pleaded that the deceased was earning Rs.6,000/- per month working as Pipe Fitter but no documentary or oral evidence in support thereof has been adduced. Therefore, in these circumstances, in absence of any proof regarding income, the income of the deceased is considered as Rs.4,000/- per month as per minimum wages at the relevant time + Rs.400/- i.e. 10% addition towards future prospect looking to the age of deceased as 60 years in view of decision in *Pranay Sethi (supra)*. Further, considering the age of the deceased, the dependency, the nature of his job and the decisions of the Hon'ble Supreme Court in *Sarla Verma & Pranay Sethi (supra)*, the claimants are held entitled for compensation in the following manner:

S.I. No.	Head	Calculation (in rupees)
1.	Income of the deceased @ Rs.4,000/- + 10% additional looking to the age of 60 years i.e. 400/- Total Income = Rs.4,400/- per month.	Rs.4,400/- x 12 = Rs.52,800/-
2.	1/5 deduction towards personal and living expenses of the deceased	Rs.10,560/- Rs.52,800 – Rs.10,560 = Rs. 42,240/-
3.	Multiplier of 9 to be applied	Rs.42,240/- x 9 = 3,80,160/-
4.	Towards loss of funeral (as awarded by the Tribunal)	Rs.25,000/-
5.	Towards loss of consortium (as awarded by the Tribunal)	Rs.1,00,000/-
6.	Towards love and affection to appellant nos. 2 to 4 (as awarded by the Tribunal)	Rs.75,000/-
7.	Towards love and affection to appellant	Rs.1,50,000/-

	nos. 5 to 7 (as awarded by the Tribunal)	
	Total Compensation	Rs.7,30,160/-

Since the Tribunal has already awarded Rs.5,66,000/-, after deducting the same from the above amount, the claimants are held entitled for additional compensation of Rs.1,64,160/- with interest @ 6% per annum from the date of application till realization. However, rest of the conditions of the impugned award shall remain intact.

08. In the result, the appeal is allowed in part with modification in the impugned award to the above extent.

Sd/-
(Gautam Chourdiya)
Judge