

AFR**HIGH COURT OF CHHATTISGARH, BILASPUR****MAC No. 132 of 2014**

1. Smt. Jyoti Chaturvedi Wd/o Late Umashankar Chaturvedi Aged About 45 Years
2. Miss Rupal Chaturvedi D/o Late Umashankar Chaturvedi Aged About 20 Years
3. Ritesh Chaturvedi S/o Late Umashankar Chaturvedi Aged About 19 Years
4. Miss Raveena Chaturvedi D/o Late Umashankar Chaturvedi Aged About 15 Years Minor, Through Mother Smt. Jyoti Chaturvedi, Wd/o Late Umashankar Chaturvedi (Mother)

All are R/o Beside Bela Apartment, Bajrang Chowk, RajKishore Nagar, P.S. Sarkanda, Distt. Bilaspur C.G.

---- Appellants/claimants**Versus**

1. Manoj Mahato S/o Jagdish Mahato Through- Sanjay Kumar Singh, R/o Kailash Nagar, Sharma Complex, Laxmi Industries Birgaon, Raipur, Tah. And Distt. Raipur C.G.
2. Arvind Kumar Singh S/o Sasbir Kumar Singh Through- Sanjay Kumar Singh, Kailash Nagar, Sharma Complex, Laxmi Industries Birgaon, Raipur, Tah. And Distt. Raipur C.G.
3. Shri Ram General Insurance Company Ltd. Through- Main Head Office, E/8 EPIP Ricko Industrial Area, Seetapur, Jaipur Rajasthan.
4. Balkrishna Dwivedi S/o Ramlal Dwivedi Thru- Dinesh Kumar Dubey, S/o Tarachand Dubey, R/o Ring Road, Gangapur, Ambikapur, Distt. Surguja C.G., Additional Address- Khadanpara, Bhatgaon, Distt. Surajpur C.G.
5. Dinesh Kumar Dubey S/o Tarachand Dubey R/o Ring Road, Gangapur, Ambikapur, Distt. Surguja C.G.
6. The Oriental Insurance Company Ltd. Through- The Divisional Manager, Divisional Office, Opposite Rajeev Plaza, Near Bus Stands, Bilaspur, Tah. And Distt. Bilaspur C.G.

---- Respondents

For Appellants	Shri Praveen Dhurandhar, Advocate.
For Respondent No.3	Shri Sachin Singh Rajput, Advocate.
For Respondent Nos 4 & 5	Shri D.N. Prajapati, Advocate.
For Respondent No.6	Shri Raj Awasthi, Advocate.

Hon'ble Shri Justice Gautam Chourdiya

Order On Board

07.12.2018

1. Heard on I.A. No.5, Application for withdrawal of Vakalatnama on behalf of the appellants.
2. For the reasons mentioned in the application, the same is allowed and Shri P.K. Tulsyan, Advocate is permitted to withdraw his Vakalatnama on behalf of the appellants.
3. Shri Praveen Dhurandhar has filed his Vakalatnama on 11.12.2018 on behalf of the appellants. Hence, the appellants are being represented by Shri Dhurandhar.
4. This appeal is by the claimants against the award dated 01.03.2013 passed by 6th Additional Motor Accident Claims Tribunal, Bilaspur, District Bilaspur, C.G. in Claim Case No.21/2011 awarding total compensation of Rs. 20,39,573/- with interest @ 7.5 per annum from the date of application till realization, fastening liability jointly and severally on the non-applicant Nos.1 to 3 and Nos. 4 to 6 at the ratio of 50%-50% respectively.
5. As per averments made in the claim petition on 31.03.2010 Umashankar Chaturvedi deceased along with his colleagues was going in a bus bearing no. CG15-A-8816 to his work place. On the way non-applicant no.1 driven the Truck bearing no. CG04-J-

1478 was coming from opposite direction. While the driver of the bus was overtaking the said truck after blowing horn and properly using upper dipper light, the non-applicant no.1 all of a sudden applied break on the middle of the road, as a result of which the left side of the bus got dashed against the right side of the Truck. In the said accident deceased Umashankar Chaturvedi and other passengers travelling in the bus suffered grievous injuries. Umashankar Chaturvedi was admitted in the hospital, during course of treatment he died in the night intervening 31.10.2010 and 01.11.2010. At the time of accident, deceased Umashankar Chaturvedi was aged about 49 years, earning Rs.30,000/- per month as a Senior Foreman in SECL and was also getting certain allowances.

6. 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. No counter appeal has been filed by the respondents.

7. Learned counsel for the appellants/claimants submits as under:

(i) that income of the deceased has wrongly been considered by the Tribunal as Rs.20,247/- pm whereas as per Ex.P/9 it should have been Rs.30,339/- at the most, 10% of the same could have been deducted towards income tax.

(ii) that no amount towards future prospect has been granted to the claimants.

(iii) that the amount awarded under the conventional heads

also being on the lower side deserves to be enhanced suitably.

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, Magma General Insurance Co. Ltd. Vs. Nanuram @ Chuhru Ram and others in Civil Appeal No.9581/2018 arising out of SLP (Civil) No.3192/2018.***

8. On the other hand, learned counsel for the respondent/s support the impugned award and submit that the Tribunal considering all the relevant aspects of the matters has rightly awarded compensation which needs no interference by this Court.
9. Heard learned counsel for the parties and perused the material available on record.
10. Considering the facts and circumstances of the case, pleadings of the parties and the evidence adduced by them, the salary certificate Ex.P-9, it is seen that the gross salary of the deceased was Rs.30,339/- per month, whereas the Tribunal has considered the same as Rs.20,247/- which does not appears to be based on proper appreciation of the material available on record. Therefore, 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 & Magma General Insurance Co. Ltd.* (supra), the claimants are held entitled for compensation

in the following manner:

SI No.	Heads	Calculation (in rupees)
1.	Income of the deceased	Rs.30,339/- x 12 = Rs.3,64,068/-
2.	30% towards future prospect	Rs.1,09,220/- Rs.3,64,068/- + Rs.1,09,220/- = Rs.4,73,288/-
3.	10% deducted towards Income Tax	Rs.47,328/- Rs.4,73,288 – Rs.47,328 = Rs.4,25,960/-
4.	1/4th deduction towards personal and living expenses of the deceased.	Rs.4,25,960– Rs.1,06,490/- =Rs.3,19,470/-
5.	Multiplier of 13 to be applied	Rs. 41,53,110/-
6.	Towards loss of estate, loss of consortium and funeral expenses	Rs.70,000/-
7.	Loss of filial consortium to claimants no. 2 to 4 @ Rs.20,000/- each.	Rs.60,000/-
	Total Compensation	Rs.42,83,110/-

11. Admittedly, the sum of Rs.3,12,940/- under the Workmen Compensation Act has been deposited with the Labour court, Ambikapur, which is payable to the claimants. Therefore, the aforesaid amount is liable to be deducted from the total compensation assessed by this Court. Having done so is, the claimants are held entitled for total compensation of Rs.39,70,170/-

12.Since the Tribunal has already awarded Rs.20,39,573/-, after deducting the same from the above amount, the claimants are held

entitled for additional compensation of Rs.19,30,597/- with interest @ 7.5% per annum from the date of application till realization. However, rest of the conditions of the impugned award shall remain intact.

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

Sd/-
(Gautam Chourdiya)
Judge

Akhilesh