

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**MAC No. 280 of 2015**

1. Smt. Kunjbai Sahu W/o Late Mohanlal Aged About 40 Years
2. Ku. Urwashi Sahu D/o Late Mohanlal Sahu Aged About 22 Years
3. Ku. Kshama Sahu S/o Late Mohanlal Sahu Aged About 20 Years
4. Sewak Sahu S/o Late Mohanlal Sahu Aged About 18 Years
5. Tulsi @ Vikash Kumar Sahu S/o Late Mohanlal Sahu Aged About 15 Years

Appellant No.5 being minor on behalf of through his legal guardian mother Smt. Kunjba Sahu appellant No.1.

6. Vijay Lal Sahu S/o Late Jaharu Lal Sahu Aged About 65 Years
7. Smt. Thanwarin Bai Sahu W/o Vijay Lal Sahu Aged About 60 Years

All R/o Kurud, Chandipara, Post Office Kurud, Police Station And Tahsil- Kurud, District Dhamtari Chhattisgarh

**---- Appellants**

**Claimants**

**Versus**

1. Anchal Singh Thakur s/o Late Rajendra Singh Thakur Aged About 26 Years R/o Ward No. 11, Shankar Nagar, Kurud, Post Office Police Station And Tahsil - Kurud, District Dhamtari Chhattisgarh (driver and registered owner of vehicle motor cycle bearing No. CG 05 N 4158)
2. The United Insurance Company Limited Through Divisional Manager, Divisional Office, Kutchery Chowk, Raipur, Post Office Raipur, Police Station- Gol Bazar, Raipur, Tahsil And District Raipur Chhattisgarh (insurer of vehicle motor cycle bearing No. CG 05 N 4158)

**---- Respondents**

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|---------------------|---|---------------------------------------------------------------|
| For Appellants      | : | Shri AL Singroul, Advocate.                                   |
| For Respondent No.2 | : | Shri HB Agrawal, Sr. Adv. With Shri Pankaj Agrawal, Advocate. |

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**Hon'ble Shri Gautam Chourdiya, J**

**Judgment On Board**

**07/12/2018**

This appeal is by the claimants against the award 26.7.2014 passed by Additional Motor Accident Claims Tribunal (FTC), Dhamtari, in Claim Case No.146/2013 awarding total compensation of Rs.3.47 lacs with interest @ 6% per annum from the date of application till realization, fastening liability on the non-applicants jointly and severally.

02. As per claim petition, on 27.7.2012 while deceased Mohanlal Sahu, 25 years, earning Rs.25,000/- per month as wholesale vegetable seller and from agriculture, was coming from Bus Stand, Kurud on foot, non-applicant No.1 by driving motorcycle bearing No.CG 05 N 4158 in a rash and negligent driving hit the deceased as a result of which Mohanlal suffered grievous injuries and ultimately died in hospital during treatment. Crime was registered by the police against non-applicant No.1.

03. 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 that the Tribunal has wrongly considered income of the deceased as Rs.3000/- per month whereas even as per minimum wages, it comes to Rs.4500/-. The Tribunal has also wrongly deducted 1/3rd towards personal and living whereas as per decision of the Hon'ble Supreme Court in ***Smt. Sarla Verma and others VS. Delhi Transport Corporation and another, (2009) 6 SCC 121***, it should have been 1/5th as the number of dependents in this is seven and likewise, multiplier of 14 is applicable instead of 13. Further, no amount towards future prospect has been given and in view of decision in ***National Insurance Co. Ltd. Vs. Pranay Sethi, (2017) 16 SCC 680***, there should be 25% addition in the annual income of the deceased under this head and likewise, under the conventional heads also the Tribunal

has awarded on the lower side which needs to be enhanced to Rs.70,000/- as per *Pranay Sethi* decision.

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.25,000/- per month as wholesale vegetable seller and from agriculture 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.4500/- per month as per minimum wages at the relevant time. Hence, keeping in view the decision in *Sarla Verma* and *Pranay Sethi* (supra), the claimants are held entitled for compensation in the following manner:

| Sl. No. | Heads                                                                | Calculation (in rupees)    |
|---------|----------------------------------------------------------------------|----------------------------|
| 01.     | Income of the deceased @ Rs.4,500/- per month.                       | 54,000/- per annum         |
| 02.     | 25% of (i) above to be added towards future prospects                | 54,000 + 13500 = 67,500/-  |
| 03.     | 1/5th deduction towards personal and living expenses of the deceased | 67,500 – 13,500 = 54,000/- |
| 04.     | Multiplier of 14 to be applied                                       | 7,56,000/-                 |
| 05.     | Towards loss of estate, loss of consortium and funeral expenses      | 70,000/-                   |
|         | <b>Total compensation</b>                                            | <b>Rs.8,26,000/-</b>       |

Since the Tribunal has already awarded Rs.3.47 lacs, after deducting the same from the above amount, the claimants are held

entitled for additional compensation of Rs.4,79,000/- 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**

Khan