

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 618 of 2015**

1. Anjana, W/o Mohanlal Bharti, aged about 38 years, Occupation Housewife,
2. Hemram, S/o Saniram Bharti, aged about 70 years,

Both are R/o Village and Post Dharsiwa, Tahsil Dharsiwa, Civil and Revenue District- Raipur (C.G.).

---- Appellants/Claimants**Versus**

1. Awadhesh Shah S/o Parimal Shah Occupation Owner, R/o Gangabag, Raipur, Punapur Road, Raipur (C.G.).
2. Dinesh, S/o Parimal Shah, Occupation- Driver, R/o Gangabai Ghat, Road, Nagpur.
3. National Insurance Company Ltd., Through: the Branch Manager, Branch Office- Mobine Mohan, G.E. Road, Near Banarasi Pan Bhandar, (Near Lalganga Complex), Raipur (C.G.).

---- Respondents

For Appellants	:	Shri R. K. Pali, Advocate.
For Respondent No.3	:	Shri Qamrul Aziz, Advocate.

Hon'ble Shri Gautam Chourdiya, J**Judgment On Board****05.12. 2018**

This appeal is by the claimants against the award dated 22.01.2015 passed by 2nd Additional Motor Accident Claims Tribunal, Raipur (C.G.) in Claim Case No.08/13 awarding total compensation of Rs. 31,47,480/- with interest @ 6% per annum from the date of application till realization, fastening liability on the non-applicants jointly and severely.

02. As per claim petition, on 11.08.2012 deceased Mohanlal, 37 years, earning Rs.24,061/- per month as Railway constable, died in the motor vehicle accident caused due to rash and negligent driving of vehicle bearing registration No. CG04-ZA/5473 by non-applicant No.-1-Awadhesh Shah.

03. On claim petition being filed by the claimants/wife & mother of the deceased 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 income of the deceased has wrongly been considered by the Tribunal as Rs.19695/- by deducting allowances i.e. Rs.7332/- DA Grade Pay of Rs. 2400/-, HRA Rs. 2256/-, Ration Money-Rs. 1753/-, Transport allowance- Rs. 1320/- Washing allowance-Rs. 75, battery allowance-Rs. 45/- etc. whereas as per pay slip EX P/1, it should have been Rs 24061/-. He further submits that looking to the age of deceased, insufficient amount towards future prospect has been granted to the claimants.

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, as per EX P/1 the deceased was getting salary of Rs.24061/- including Rs.7332/- DA Grade Pay of

Rs. 2400/-, HRA Rs. 2256/-, Ration Money-Rs. 1753/-, Transport allowance- Rs. 1320/- Washing allowance-Rs. 75, battery allowance-Rs. 45/-. From the above, only three allowances are liable to be deducted i.e. Transport allowance, washing allowance & battery allowance. After deducting the said allowances income of the deceased comes to Rs. 22631/- as salary paid govt. employee at the relevant time. Further, considering the age of the deceased i.e. 37 years, 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:

Sl. No.	Heads	Calculation (in rupees)
01.	Income of the deceased @ Rs 22631 per month.	Rs. 22631x12= Rs. 2,71,572/- per annum
02.	50% of (i) above to be added towards future prospects.	Rs. 271572+135786= Rs. 4,07358/-
03.	1/3 rd deduction towards personal and living expenses of the deceased	Rs. 271,572/-
04.	Multiplier of 15 to be applied	Rs. 4073580/-
05.	Towards loss of estate and funeral expenses	Rs. 25,000/- as awarded by the Tribunal
06.	Towards loss of spousal consortium	Rs. 50,000/- as awarded by the Tribunal
	Total compensation	Rs. 41,48,580/-

Since the Tribunal has already awarded Rs.31,47,480, after deducting the same from the above amount, the claimants are held entitled for additional compensation of Rs.10,01,100/- 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