

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 498 of 2018**

1. Parmeshwar S/o Shri Ramdev aged about 55 years,
2. Surajmati W/o Parmeshwar, aged about 53 years,
3. Ramkumar S/o Parmeshwar, aged about 28 Years,

All are resident of Village : Khadganwa Kala, Tahsil : Pratappur, District Surajpur (C.G.).

---- Appellants

Versus

1. New India Insurance Company Ltd., Division Office, SADA Complex Bilaspur, District Bilaspur (C.G.).

(Insurer of alleged vehicle Bolero bearing registration No. C.G. 15- DC-3203)

2. Indralok Singh S/o Bramhadev Singh R/o Village Jajawal Bhursapara, Post : Jajawal, Tahsil Pratappur, District- Surajpur (C.G.)

(Owner of alleged vehicle Bolero bearing registration No. CG.-15- DC-3203)

3. Mo. Iliyas S/o Abdul Karim, by caste : Musalman, aged about 42 years, Occupation : Driver, R/o Village : Mahamaya Ward No. 4, Village + Post : Pratappur, District: Surajpur (C.G.)

(Driver of alleged vehicle Bolero bearing registration No. CG.15- DC-3203).

---- Respondents

For Appellant	: Shri D. N. Prajapati, Advocate
For Respondent No. 1	: Shri Anil Gulati, Advocate

Hon'ble Shri Justice Gautam Chourdiya
Judgment on Board

30.11.2018

This is claimants' appeal seeking enhancement of

compensation awarded by the Additional Motor Accident Claims Tribunal, Pratapur, District- Surajpur (for short 'the Tribunal') in claim case No. 22/2017 vide award dated 30.10.2017.

2. Facts of the case leading to filing of claim petition are that on the fateful day i.e. on 16.03.2017 at about 9.00pm Prem Chakradhari aged about 32 years, was going from village-Kerta towards village- Khadgava -kala, respondent No. 3- Mo. Iliyas driver of Bolero bearing registration No. CG-15/DC-3203 (offending vehicle), driving the said vehicle rashly and negligently, dashed the motor cycle, as a result of which, deceased sustained multiple injuries and due to the injuries sustained by him in the accident, he died on the spot.

3. As against compensation of Rs. 21,22,752/- claimed by unfortunate parents, wife and children of deceased- Prem Chakradhari, by filing application under Section 166 of the Motor Vehicles Act, 1988 (for short 'MV Act') for the death of deceased in the motor accident on 16.03.2017, the Tribunal awarded a total sum of Rs. 4,79,000/- as compensation along with interest @ 6 percent per annum from the date of application till its actual payment to the appellants/claimants.

4. The Tribunal, on a close scrutiny of the evidence, held : the accident had occurred due to rash and negligent driving of respondent No. 3- Mo. Iliyas who dashed the motorcycle of the deceased- Prem Chakradhari, due to which, he sustained multiple injuries and succumbed to these injuries. Learned Tribunal, after considering the material available on record awarded aforesaid sum as compensation in favour of claimants and further held that respondent No. 1/Insurance Company &

respondent No. 2 & 3 jointly and severally are liable to pay compensation to the claimants.

5. Learned counsel for the appellants/claimants submits that on the date of accident the deceased was aged about 30 years and he was working at Government sugar factory as labour (watchman) at the time of accident and his earning was Rs. 6692/- per month but the learned Tribunal has fallen in error in assessing the notional income of the deceased as Rs.4,500/- per month and thereby awarding low compensation of Rs. 4,79,000/- whereas even as per minimum wages of the labour, it ought to have considered at least Rs. 6,000/- per month. The Tribunal has not awarded any amount towards future prospect whereas as per decision in **National Insurance Co. Ltd. Vs. Pranay Sethi** reported in **(2017) 16 SCC 680** there should have been 40% addition to the annual income of the deceased towards future prospect. He also submits that the Tribunal has erred by not awarding sufficient amount under the conventional head.

6. On the other hand, learned counsel for respondent No. 1 submits that the amount awarded by the Claims Tribunal for the death of deceased- Prem Chakradhari is just and proper, which does not call for any interference in the instant appeal.

7. I have heard learned counsel appearing for the parties and perused the impugned award including the record of Claims Tribunal.

8. So far as income of the deceased is concerned, the claimant has pleaded that the deceased was earning Rs. 6,692/- per month, however, considering the fact that the accident occurred in the year 2017, as per minimum wages of govt. employee at the relevant time, the notional income of the deceased can be taken as Rs. 6,000/- per month. Further, from the evidence adduced by the parties, the deceased was unmarried and about 30 years of age at the time of accident and as regards the 50% of deduction towards his personal & living expense is concerned the same being just and proper needs no interference by this Court.

Therefore, keeping in view the decision in **National Insurance Co. Ltd. Vs. Pranay Sethi (Supra) & Sarla Verma (Smt.) & Others V. Delhi Transport Corporation and anr.** reported in **2009 (6) SCC121**, there should be 40% addition in the annual income of the deceased towards future prospect as a govt. employee (labour) and the applicable multiplier would be 17 in view of the decision of Supreme Court Judgment in **Sarla Verma(Supra)**. This apart the claimant is also entitled for a sum of Rs.30,000/- under the incidental heads in view of decision rendered by the Supreme Court in the matter of **National Insurance Co. Ltd. Vs. Pranay Sethi** reported in **(2017) 16 SCC 680.**

9. On the basis of above, I propose to re-compute the amount of compensation as under :-

Sl. No.	Heads	Calculation
01.	Income of the deceased	Rs.6,000x12=Rs.72,000/- per annum
02.	40% of above to be added towards future prospects	Rs = 72,000+28,800/-= Rs. 100,800/-
03.	After 1/2th deduction towards personal and living expenses of the deceased	Rs. 50,400/-
04.	Multiplier of 17 to be applied	Rs.8,56,800./-
05	Towards incidental heads(loss of estate and funeral etc.)	Rs. 30,000/-
	Total Compensation	Rs.8,86,800/-

10. Since, the Tribunal has already awarded a sum of Rs. 4,79,000/- after deducting the same from the amount as calculated

above, the claimants are held for an additional compensation of Rs. 4,07,800/-. This additional amount shall carry interest at the rate of 6% per annum from the date of claim application till its realization. The award is modified to the above extent. Rest of the conditions of the award shall remain intact.

11. The respondent No. 1/New India Insurance Company Ltd. is granted two months' time to deposit enhanced amount of compensation of Rs. 4,07,800/- along with interest before the concerned Tribunal. No order as to costs.

Sd/-

(Gautam Chourdiya)
Judge

Amita