

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 1277 of 2014**

1. Smt. Dhelabai Chandrakar, aged about 66 years, widow of Late Kaliram Chandrakar.
2. Kumari Savitri Chandrakar, aged about 40 years, daughter of Late Kaliram Chandrakar.
3. Krishna Kumar Chandrakar, aged about 38 years, son of Late Kaliram Chandrakar

All are resident of Village Nandgaon, Police Station Mahasamund, District- Mahasamund, Chhattisgarh, at present resident of P& T Colony, Rohinipuram Talab Daganiya, Raipur, Chhattisgarh.

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

1. Ramanand Yadav, aged about 40 years, son of Devraj Yadav, resident of Padkikala, Police Station Tarwa, Tehsil Lalganj, District- Jaitpur (U.P.) at present resident of Kashipur, Police Station Chitpur 57/7, P.V. Road Kolkatta (West Bengal)

(Truck No. WB 23 C 2890 Driver)

2. Smt. Rekha Ghosh, wife of Shri D.K. Ghosh, resident of 2 Vivekanand Colony Panihati, PostSotpur, 106 B.T. Road Kolkatta (West Bengal)

(Truck No. WB 23 C 2890 owner)

3. Reliance General Insurance Company Limited, Ravi Bhawan 4th Floor, G.E. Road, Raipur, Tehsil and District- Raipur, Chhattisgarh

(Truck No. WB 23 C 2890 Insurer)

---- Respondents

For Appellants	:	Shri Rajkumar Pali, Advocate.
For Respondent No.3	:	Shri S. S. Rajput, Advocate.

Hon'ble Shri Gautam Chourdiya, J

Judgment On Board

28.11. 2018

This appeal is by the claimants against the award dated 06.08.2014, passed by Chief Motor Accident Claims Tribunal, Raipur in Claim Case No.87/2012 awarding total compensation of 5,40,000/-with interest @ 9% per annum from the date of application till realization, fastening liability on the non-applicants jointly and severally.

02. As per claim petition, on 09.06.2012 deceased Jagatram Chandrakar, 47 years, was earning Rs.15,000/- per month as Advocate, practicing in District Court, Raipur died in the motor vehicle accident caused due to rash and negligent driving of vehicle (truck) bearing registration No. WB23-C/2890 by non-applicant No.1- Ramanand Yadav.

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 as under:

(i) that income of the deceased has wrongly been considered by the Tribunal as Rs.5,000/- whereas it should have been Rs7,500/-

(iii) that multiplier of 13 has been applied and considering the age of the deceased, by the tribunal is justified and no need to be interfered in this regard.

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

(v) that the amount awarded under the conventional heads also being on the lower side deserves to be enhanced suitably. No amount towards loss of filial and other consortium has been granted.

05. 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.***

06. 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.

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

08. As regards income of the deceased, though the claimants have pleaded that the deceased was earning Rs.15,000/- per month as Advocate 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.7,500/- per month as per minimum earning from advocacy work at the relevant time. 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, Magma General Insurance Co. Ltd. (supra)***, the claimants are held entitled for compensation in the following manner:

Sl. No.	Heads	Calculation (in rupees)
01.	Income of the deceased @ Rs7,500/- per month.	Rs. 90,000/- per annum
02.	25% of (i) above to be added towards future prospects.	90,000+22500=Rs. 112500/-
03.	1/2 deduction towards personal and	Rs. 56250/-

	living expenses of the deceased	
04.	Multiplier of 13 to be applied	Rs. 7,31,250/-
05.	Towards loss of estate, funeral expenses and for filial	30,000+50,000= Rs. Rs. 80,000/-
	Total compensation	Rs. 8,11,250/-

09. Since the Tribunal has already awarded Rs.5,40,000/-, after deducting the same from the above amount, the claimants are held entitled for additional compensation of Rs.2,71,250 with interest @ 9% per annum from the date of application till realization. However, rest of the conditions of the impugned award shall remain intact.

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

Sd/-

(Gautam Chourdiya)
Judge