

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 1252 of 2014**

1. Ravindra Bagde. S/o Baburao Bagde Aged About 36 Years
2. Ku. Harshita Bagde D/o Ravindra Bagde Aged About 12 Years
3. Mehul Bagde S/o Ravindra Bagde Aged About 4 Years
4. Babu Rao Bagde S/o Late Baliram Bagde Aged About 54 Years
5. Kamla Bagde W/o Baburao Bagde Aged About 60 Years

Appellant nos. 2 & 3 are minor, through their natural guardian i.e. appellant no.1 Ravindra Bagde

All are R/o Vivekanand Nagar, Seepat Road, Mopka, P.S. Sarkanda, Tah. And Distt. Bilaspur C.G.

---Appellants**Versus**

1. Balvinder Singh S/o Harbansh Singh Aged About 38 Years R/o Adarsh Colony, Dayalband, Bilaspur, Tah. And Distt. Bilaspur C.G.
2. Uttam Singh Domir S/o Manohar Singh Aged About 58 Years R/o Transport Nagar, Korba, Distt. Korba C.G.
3. The New India Insu.Co.Ltd. S/o Thru- The Divisional Manager, Old Bus Stand, Bilaspur, Distt. Bilaspur C.G.

---- Respondents

For Appellants	Smt. Bhagwati Kashyap, Advocate.
For Respondent no.3	Shri Samir Singh, Advocate.

Hon'ble Shri Justice Gautam Chourdiya**Order On Board****07/12/2018**

1. This appeal is by the claimants against the award dated 30.08.2014 passed by the Fourth Additional Member to the First Additional Motor Accident Claims Tribunal, Bilaspur, C.G. in Claim Case No.43/2013 awarding total compensation of

Rs. 14,65,200/- with interest @ 6 per annum from the date of application till realization, fastening liability on the non-applicants jointly and severally.

2. As per claim petition, on 21.08.2012 deceased Asheema Ekta Minj, aged about 34 years, earning Rs.12,000/- per month working as Shiksha Karmi, Grade-II, was sitting on motorcycle as a pillion rider, which was being driven by appellant no.1/husband met with an accident with a Truck bearing registration No. OR-11D-5756 which was driven by respondent no.1 rashly and negligently, owned by respondent no.2 and insured with respondent no.3, as a result of which she sustained grievous injuries on her body and succumbed to death.
3. 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.
4. Learned counsel for the appellants/claimants submits as under:
 - (i) that income of the deceased has wrongly been considered by the Tribunal as Rs.10,705/- whereas it should have been Rs.23,000/- pm.
 - (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. No amount towards loss of filial and other consortium has been granted.

(iv) that the Tribunal has awarded only 6% simple interest which needs to be enhanced.

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.**

5. 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.

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

7. So far as the income of the deceased is concerned, the Tribunal was justified in assessing the income of the deceased as Rs.10,705/- per month as per Ex.A-11 i.e. salary certificate. Further, considering the age of the deceased i.e. 36 years, the dependency, the nature of her 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:

S.I. No.	Heads	Calculation (in rupees)
1.	Income of the deceased	Rs.10,705 x 12 = Rs.1,28,460/-
2.	50% to be added towards future prospects.	Rs.64,230/- Rs.1,28,460/- + Rs.64,230/- = Rs.1,92,690/-

3.	¼ deduction towards personal and living expenses of the deceased	Rs.48,172/-
4.	Annual Loss of dependency	Rs.1,92,690 - Rs.48,172/- = Rs.1,44,518/-
5.	Multiplier of 15 to be applied	Rs.1,44,518 x 15 = Rs. 21,67,770/-
6.	Towards loss of estate, loss of consortium and funeral expenses	Rs.70,000/-
7.	Towards loss of parental consortium to claimants no. 2 & 3 @ Rs.15,000/- each	Rs.30,000/-
	Total Compensation	Rs.22,67,770/-

8. Since the Tribunal has already awarded Rs.14,65,200/-, after deducting the same from the above amount, the claimants are held entitled for additional compensation of Rs.8,02,570/- with interest @ 6% per annum from the date of application till realization. However, rest of the conditions of the impugned award shall remain intact.

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

Sd/-
(Gautam Chourdiya)
Judge

Akhilesh