

HIGH COURT OF CHHATTISGARH, BILASPUR

MAC No. 297 of 2014

1. Smt. Aarti, Wd/o Late Maniram, Dhritlahre, aged about 30 years,
2. Gyaneshwar, S/o Late Maniram Dhritlahre, aged about 4 years,
3. Ku. Varsh, D/o Late Maniram Dhritlahre, aged about 1 year,
4. Bedram, S/o Prahlad Dhritlahre, aged about 60 years,
5. Smt. Bedan Bai, W/o Bedram, aged about 55 years,

Appellant Nos. 2 & 3 ae minor, through Natural Guardian Mother
Smt. Aarti, Wd/o Late Maniram Dhritlahre, aged about 30 years,

All are R/o Village Tilda, Police Station Kasdol, Civil and Revenue
District Balodabazar Bhatapara C.G.

---- Appellants/Claimants

Versus

1. Heeralal Lodhi, S/o Ramand Lodhi R/o Ganjpara, Durg, Police
Station and Tashil Durg, Civil and Revenue District Durg, C.G.

Driver of offending vehicle Truck No.CG04/J/1514

2. Sitaram Agrawal, S/o Radheshyam Agrawal, R/o Bazarpara, Ward
No.14, Tilda, Police Station Tilda, Civil and Revenue District
Raipur, C.G.

Owner of offending vehicle Truck No. CG04/J/1514

3. Manager Beema Company, National Insurance Company,
Tatiband, Raipur, District Raipur, C.G. Mobin Mahal Second Floor,
Kachhari Chow, G.E. Road, Raipur, Civil and Revenue District
Raipur C.G.

---- Respondents

For Appellants	None.
For Respondent No.3	Shri Dashrath Gupta, Advocate.
Amicus Curiae	Shri Lalit Jangde, Advocate.

Hon'ble Shri Justice Gautam Chourdiya

Order On Board

30.11.2018

1. By the instant appeal, the appellants/claimants are
challenging the legality and validity of the award dated

29.01.2014 passed by the Motor Accident Claims Tribunal, Balodabazar, District Balodabazar, C.G (in short "Claims Tribunal") in Claim Case No.40/2013, whereby the learned Claims Tribunal awarded total compensation of Rs. 4,76,000/- along with interest @ 6 percent per annum from the date of application till its actual payment and fastened the liability on respondent No.3 along with respondent Nos. 1 & 2 jointly and severally for satisfying the award of compensation.

2. Brief facts of the case, are that on 22.11.2012 deceased -Maniram Dhritlahre, aged about 30 years, who was working as a Mason, met with an accident at about 7:45 pm, as the respondent No.1 while driving the offending vehicle truck bearing registration No. CG04-J-1514 rashly and negligently, dashed the vehicle of deceased. The deceased received severe injuries and died on the spot. The claimants, who are parents, wife and minor children of deceased -Maniram Dhritlahre, filed claim application under Section 166 of the Motor Vehicle Act before the Tribunal claiming compensation to the tune of Rs. 43,00,000/- from the respondents under various heads.
3. Respondent No.3 – Insurance Company has contested the case by filing its written statement and pleaded that the claim of the claimants is on higher side and also pleaded that vehicle was being driven in breach of terms and condition of insurance policy, as the driver was not holding valid and

effective driving licence to drive the offending vehicle.

4. Learned Claims Tribunal after considering the pleadings, evidence and other material available on record, awarded Rs. 4,76,000/- as total compensation to the claimants as mentioned above.
5. Shri Lalit Jangde appearing as Amicus Curaie submits that at the time of accident, income of the deceased was claimed as Rs.27,000/- per month but the Tribunal has wrongly taken it as Rs.3000/-. He further submits that the learned Claims Tribunal erred in not awarding any amount towards the loss of future prospects. Lastly, he submits that the Tribunal has awarded a meager amount of Rs.17,000/- under the Conventional heads whereas in view of decision of Hon'ble Supreme Court in the matter of **National Insurance Co. Ltd Versus Pranay Sethi** reported in **(2017) 16 SCC 680**, the claimants are held entitled for lump sum amount of Rs.70,000/- under conventional heads.
6. Per contra learned counsel appearing for the Insurance Company supported the award and submitted that the learned Claims Tribunal has passed the impugned award after considering all the facts and circumstances of this case and award passed by the Tribunal is just and proper.
7. I have heard the learned counsel for both the parties and perused the records.
8. So far as the income of the deceased is concerned, the

claimants have pleaded that the deceased was working as a Mason and thereby earning Rs.27,000/- per month. But no evidence has been adduced by the claimants to substantiate the said plea. In such circumstances, considering the nature of job of the deceased and the minimum wages at the relevant time, his monthly income can safely be taken as Rs.4,000/- i.e. Rs. 48,000/- per annum. As the deceased was 30 years of age, the Tribunal was justified in applying the multiplier of 17. The Tribunal was also justified in deducting 1/4 towards personal and living expenses of the deceased, as there are 5 dependents. However, the Tribunal has not awarded any amount towards future prospect whereas considering the age of the deceased and nature of his job 40% of his annual income ought to have been added thereto towards future prospect in the light of decision of the Hon'ble Supreme Court in **Pranay Sethi** (supra). Likewise, the amount awarded by the Tribunal under the conventional heads also deserves to be enhanced to Rs. 70,000/- Thus, in view of the aforesaid decision, the claimants are held entitled for compensation in the following manner:-

Head	Calculation
Income of the deceased	Rs.4,000/-x12= Rs.48,000/- per annum.
40% towards future prospect	Rs.19,200/- Rs.48,000/- + Rs. 19,200 = 67,200/-

¼ deduction towards personal and living expenses of the deceased	Rs.16,800/-
Annual loss of dependency	Rs.67,200/- – Rs.16,800/- = Rs.50,400/-
Multiplier of 17 applied for assessing total loss of dependency	Rs.50,400 x 17 = 8,56,800/-
Towards Conventional Heads	Rs.70,000/-
Total	Rs. 9,26,800/-

9. For the reasons mentioned herein above, the appeal is allowed in part. The compensation of Rs.4,76,000/- as awarded by the Tribunal is enhanced to Rs.9,26,800/-. The appellants are further entitled to receive enhanced amount of compensation of Rs.4,50,800/-, over and above the amount awarded by the Tribunal. The enhanced amount of compensation shall carry interest @ 6% per annum from the date of claim application till its actual payment. The award is modified to the above extent. Rest of the conditions of the award shall remain intact.

10. No order as to costs.

Sd/-
Gautam Chourdiya
Judge