

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 1299 of 2018**

1. Harishankar Mehto, S/o Bharat Kumar Mehto, aged about 28 years
C/o Laldev Ram Mehto, resident of Village Sarudih, Tahsil and District
Jashpur (C.G.).
2. Bharat Kumar Mehto, son of Late Jahuran Ram Mehto, aged about 54
years,
3. Champa Devi, wife of Bharat Kumar Mehto, aged about 50 years
4. Minor Preeti Mehto, daughter of Bharat Kumar Mehto, aged about 17
years.

Appellant No. 4 is minor through her natural guardian father Bharat
Kumar Mehto

All are resident of Village Chitakwine, Post Keradih, Tehsil Kunkuri,
District- Jashpur (C.G.).

---- Appellant**Versus**

1. Firoz Siddiquie, son of Asfak Siddiquie, C/o Santosh Sonkar Near
Gulmahar House, Mayapur Shastri Ward Ambikapur Surguja
(C.G.)
2. Kailash Lakra, son of Shri Kura Lakra, aged about 32 years,
Occupation Driver, resident of Village and Post Sargawa Majhlipra,
Police Station Gandhi Nagar, Ambikapur, District- Surguja (C.G.).
3. Branch Manager, Bajaj Allianz General Insurance Company Ltd.,
2nd Floor, Shivmohan Bhavan, Vidhan Sabha Road Pandri, Raipur,
District- Raipur (C.G.).

---- Respondents

For Appellant	: Shri S. S. Painkra, Advocate
For Respondent No. 3	: Shri Utashav Maheshwar, Advocate

Hon'ble Shri Justice Gautam Chourdiya
Judgment on Board

15.11.2018

This is claimants' appeal seeking enhancement of compensation awarded by the Motor Accident Claims Tribunal (FTC), Jashpur (for short 'the Tribunal') in claim case No. 41/2017 vide award dated 25.04.2018.

2. As per averments in the claim petition, on 04.08.2017 at about 11.30am while deceased- Arti Bai, aged about 20 years, earning Rs.- 6,000/- per month by taking tuition, was crossing the road at that time non-applicant No. 2 by driving the vehicle Pickup bearing registration No.U.P. 64T/7093 in rash and negligent manner dashed Arti Bai as a result of which she suffered grievous injuries and died during treatment in the hospital.

3. The claimants filed an application under Sections 140 & 166 of the Motor Vehicle Act for compensation of Rs. 35,30,400/- After considering the evidence adduced by both the parties the learned Tribunal awarded Rs. 6,39,800/- alongwith 9% interest per annum from the date of application till its realization.

4. Learned counsel for the appellants/claimants are seeking enhancement merely on the ground that the Tribunal has wrongly considered the income of the deceased is Rs. 4,000/- per month whereas as per pleadings of the claimants and the evidence adduced by them, the deceased was earning Rs. 6,000/- per month by taking tuition. He also submits that the learned Tribunal has awarded a meager amount towards the conventional heads which is required to be enhanced.

5. On the other hand, learned counsel for respondent No. 3 submits

that the amount awarded by the Claims Tribunal for the death of deceased- Arti Bai is just and proper, which does not call for any interference in the instant appeal.

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

7. As regards the income of the deceased considering the pleadings of the claimants and the evidence adduced by them in support thereof the fact that the accident occurred on 04.08.2017, the minimum wages of the skilled labour, this Court is of the opinion that the income assessed by the Tribunal of the deceased at Rs. 4,000/- is on lowside and it can safely be taken as Rs. 6,000/- monthly.

8. Thus, keeping in view the decision in **National Insurance Co. Ltd. Vs. Pranay Sethi** reported in **(2017) 16 SCC 680.** & **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 and the applicable multiplier would be 18 in view of the decision of Supreme Court Judgment in Sarla Verma(Supra). At the time of accident deceased- Arti Bai was batchlor therefore, the Tribunal has considered the deduction of ½ towards her personal and living expenses is justified. This apart the claimant is also entitled for a sum of Rs.35000/- under the incidental heads in view of decision of Pranay Sethhy (Supra). 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= 72,000/- per annum
02.	40% of above to be added towards future prospects	Rs. 72,000+28,800= Rs. 100,800/-
03.	1/2th deduction towards personal and living expenses of the deceased as	Rs. 50,400/-

	deducted by the Tribunal	
04.	Multiplier of 18 to be applied	Rs.50,400x18= Rs. 907,200/-
05	Towards incidental heads(funeral expenses, loss of expenses & medical expenses)	Rs. 15,000+15,000+5,000 = Rs. 35,000/-
	Total Compensation	Rs.9,42,200/-

9. Thus, the claimants would become entitled for Rs. 9,42,200/- as compensation in place of 6,39,800/- as awarded by the Tribunal.

10. In view of foregoing, the appeal is partly allowed. After calculation as above the amount enhanced to Rs. 3,02,400/-. The above enhanced amount of compensation of Rs. 3,02.400/- shall carry interest @ 9% per annum from the date of application till its actual payment. Rest of the conditions mentioned in the award shall remain intact. The award stands modified to the above extent.

11. The respondent No. 3/Insurance Company is granted two months' time to deposit enhanced amount of compensation of Rs. 3,02.400/- alongwith interest before the concerned Tribunal.No order as to costs.

Sd/-
(Gautam Chourdiya)
Judge

