

**HIGH COURT OF CHHATTISGARH, BILASPUR****MAC No. 1449 of 2018**

1. Ishu Marawi S/o Shri Dayaram Marawi, aged about 45 years,
2. Neera Bai Marawi W/o Shri Ishu Marawi, about 40 years,
3. Ramsharan Marawi S/o Shri Ishu Marawi, aged about 12 years,

Appellant No. 3 is minor child, father Ishu Marawi, Caste Gond,

All R/o Village Kewanchi, Police Station & Tahsil Bilha, District-Bilaspur (C.G.)

**---- Appellants**

**Versus**

1. Dinesh Kumar Devdas S/o Shri Shatruhan Devdas, R/o Village Damru, Police Station & District- Baloda Bazar (C.G.). (Driver).
2. Sanjay Sahu S/o Dayashankar Sahu, aged about-26 years, R/o village Damru, Krisna chouk Police Station & District- Baloda Bazar (C.G.).
3. New India Insurance Comany Ltd. Shriram Trade Center 2<sup>nd</sup> Floor in front of Rajiv Plaza Bilaspur (C.G.)

**---- Respondents**

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|----------------------|-------------------------------|
| For Appellant        | : Shri Amit Chakki, Advocate  |
| For Respondent No. 3 | : Shri Anil Gulati, Advocate. |

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**Hon'ble Shri Justice Gautam Chourdiya**  
**Judgment on Board**

**15.11.2018**

This is claimants' appeal seeking enhancement of compensation awarded by Third Motor Accident Claims Tribunal, Bilaspur (for short 'the Tribunal') in claim case No. 71/2017 vide award dated 30.11.2017.

2. Facts of the case, as per claim petition are that on 12.11.2016 at about 7.00pm Mahendra Maravi was returning from Baloda Bazar to his village Kewanchi, when he reached near the Petrol pump situated at Karhi Bazar, the offending vehicle Hyva bearing registration no. CG-04JC/5319, which was being driven by respondent No. 1 rashly and negligently, dashed the deceased, as a result of which he sustained grievous injuries on his head and died on the spot.

3. As against compensation of Rs. 16,00,000/- claimed by unfortunate parents & brother of deceased- Mahendra Maravi, by filing claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short 'MV Act') for his death in the motor accident on 12.11.2016, the Tribunal awarded a total sum of Rs. 7,74,400/- as compensation along with interest @ 6 % per annum from the date of filing of claim petition till its actual payment.

4. Learned Tribunal, on a close scrutiny of the entire evidence led before it held that the accident has occurred due to rash and negligent driving of offending vehicle Hyva bearing registration No. CG-04-JC 5319, by its driver respondent No.1; assessed and awarded aforesaid amount of compensation to the appellants/claimants.

5. Learned counsel appearing for the claimants would submit the Tribunal has fallen in error in assessing the notional income of deceased as Rs. 4,500/- only whereas it should be considered as Rs. 6,000/- per month. He would further submit that amount awarded under the head of funeral expenses and loss of estate is also on the lower

side, which deserve to be suitably enhanced.

6. Learned counsel for the respondent opposes contention made by learned counsel for the appellant. In his cross objection he submits that the Tribunal has fallen in error in adding 50% towards future prospect in the yearly income of the deceased whereas in light of judgment rendered by the Supreme Court in the matter of **National Insurance Co. Ltd. Vs. Pranay Sethi** reported in **(2017) 16 SCC 680**, it should be 40%, and, therefore, the same deserves to be suitably reduced.

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

8. A bare perusal of the evidence adduced in the case would reveal that as per the claimants the deceased was working as Mason and was earning Rs.400/- per day i.e. Rs.12,000/- per month. However, no evidence and as documentary in supports of above plea has been adduced by the claimants. In the year 2016, the Mason can easily earn Rs. 200/- per day, therefore, the Tribunal has fallen in error in considering the income of the deceased as Rs.4,500/- per month whereas the Tribunal ought to have considered as Rs.6,000/- per month considering the minimum wages at the relevant time. In view of the judgment of the Supreme Court in the matter of **Pranay Sethi (supra), & Sarla Verma (Smt.) & Others V. Delhi Transport Corporation and anr.** reported in **2009 (6) SCC121**, I consider it appropriate to award 40% towards future prospect in the yearly income of the deceased. 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. Rs.1,00,800/- |
| 03.     | 1/2th deduction towards personal and living expenses of the deceased | Rs. 50,400/-.                           |
| 04.     | Multiplier of 18 to be applied                                       | Rs,9,07,200/-                           |
| 05.     | Towards other head(funeral expenses, loss of estate)                 | Rs,15,000+15,000= Rs. 30,000/-          |
| 05      | Total compensation towards loss of dependency                        | Rs. 9,37,200/-                          |

9. In view of foregoing, the appeal filed by the claimants is partly allowed and the cross appeal filed by the Insurance Company is also allowed. The compensation of Rs.7,74,000/- awarded by the Tribunal is enhanced to Rs.9,37,200/-. The above enhanced amount of compensation of Rs.1,63,200/- shall carry interest @ 6% 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.

10. The respondent No. 3/New India Insurance Company is granted two months' time to deposit enhanced amount of compensation

of Rs.1,63,200/- along with interest before the concerned Tribunal. No order as to costs.

Sd/-

(Gautam Chourdiya)  
Judge

Amita