

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No.1508/2018**

1. Dayanidhi, aged about 52 years, S/o Shri Balsakhu Savara.
2. Ku. Manisha (Minor Daughter) aged about 17 years, D/o Shri Dayanidhi

The appellant No.2 being minor and is being represented by appellant No.01, father in relation both the above are R/o Village Raital Post and P.S. Bhimkhoj (Khallari), Tahsil and Civil District & District Mahasamund C.G.

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

1. Dhaluram aged about 45 years, S/o Shri Chamar Singh Patel, R/o Village Raital, P.S. Bhimkhoj, P.S. Mahasamund Tahsil and Civil District and District Mahasamund C.G. (Driver of Motor Cycle No. CG06/P/7501)
2. Shatrughan Patel aged about 42 years, S/o Shri Santosh Patel, R/o Village Mordha (Sherr) P.S. & Tahsil & Civil District and District Mahasamund C.G. (Owner of Motor Cycle No. CG06/P/7501)
3. United India Insurance Company Ltd. Ashram Complex Shop No.07 New Mandi Raod Mahasamund Civil District and District Mahasamund C.G.

---- Respondents

For Appellants	:	Shri Jameel Akhtar Lohani, Advocate.
For Respondent No.3	:	Ms. Chitra Shrivastava, Advocate.

Hon'ble Shri Gautam Chourdiya, J**Judgment On Board****28.11.2018**

1. This is claimant's appeal for enhancement of compensation awarded by the Additional Motor Accidents Claims Tribunal, FTC, Mahasamund, C.G. in Claim Case No. H-131/2016 vide award dated 31.01.2018.
2. As against the compensation of Rs.17,00,000/- claimed by the

husband & minor daughter of deceased Dewaki Bai by filing application under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act') for her death in the motor accident dated 06.02.2016, the Tribunal has awarded a total sum of Rs.3,04,000/- as compensation along with interest at 6% per annum from the date of application till its actual payment.

3. The Tribunal, on a close scrutiny of the evidence led before it, held that on the date of accident i.e. 06.02.2016, deceased was sick and went to Hospital for treatment sitting as pillion rider in Motor Cycle bearing registration No. CG06/P/7501 driven by respondent No.1, when they reached near Memon Poultry Farm at Kasibahra Baghbahra all of a sudden respondent No.1 driving the vehicle at high speed without applying break dashed the breaker, as a result of which, deceased fell down and suffered grievous head injuries, she was shifted to Mahasamund then MECAHARA Raipur, where she died during course of treatment on 18.02.2016, deceased –Dewaki Bai, aged about 45 years, earning Rs.6,000/- per month as a Labour died on account of injuries sustained by her in the said accident; respondent No.3/ Insurance Company Limited is liable for payment of compensation as it could not establish violation of policy conditions; assessed and awarded the aforesaid amount of compensation along with interest at 6% per annum from the date of application till its actual payment.
4. Learned counsel for the appellants submits that the Tribunal has erred in assessing the monthly income of the deceased at

Rs.3000/- whereas the deceased being a Labour was earning Rs.6,000/- per month, therefore, the compensation needs to be enhanced suitably.

5. On the other hand, learned counsel appearing for respondent No.3 would submit that the amount of compensation awarded by the Tribunal is just and proper compensation in the facts and circumstances of the case and needs no interference.
6. I have heard learned counsel for the parties and perused the award impugned including the record of the Tribunal.
7. So far as determination of age of the deceased to be 45 years is concerned, the same appears to be just and proper. Further, the Tribunal was justified in making 50% deduction from the income of the deceased towards his personal and living expenses. In this case, the age of the deceased was 45 years so application of multiplier of 13 is correct. However, Tribunal appears to have fallen in error in assessing the income of the deceased at Rs.3000/- per month. From the pleadings of the claimants, the nature of job of the deceased, as also the minimum wages at the relevant time, the monthly income of the deceased can safely be taken at Rs.6,000/- i.e. Rs.72,000/- per annum. Therefore, in view of the decisions of Hon'ble Supreme Court in the matter **Sarla Verma & Ors Versus Delhi Transport Corporation** reported in **2009 (6) SCC 121** & **National Insurance Co. Ltd Versus Pranay Sethi** reported in **(2017) 16 SCC 680**, the claimants are held entitled for compensation in the following

manner:

Head	Calculation
Income of the deceased	Rs.6,000/- x 12 = Rs.72,000/- per annum.
50% deduction towards personal and living expenses of the deceased	Rs.36,000/-
Multiplier of 13 applied	Rs.36,000 x 13 =Rs. 4,68,000/-
For conventional heads (Loss of Estate, Loss of Consortium & Funeral Expenses)	Rs. 70,000/-
Total	Rs.5,38,000/-

8. Since, the Tribunal has already awarded a sum of Rs.3,04,000/-, after deducting the same from the amount as calculated above, the claimants are held for an additional compensation of Rs.2,34,000/-. This additional amount shall carry interest at the rate of 6% per annum from the date of claim application till its realization. The award is modified to the above extent. Rest of the conditions of the award shall remain intact.

9. No order as to costs.

Sd/-
Gautam Chourdiya
Judge

Akhilesh