

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 1516/2018**

1. Smt. Vandana Trivedi Wd/o Late Pranav Kumar Trivedi, aged about 56 years,
2. Somen Trivedi S/o Late Pranav Kumar Trivedi, aged about 32 years.
3. Sapan Trivedi S/o Late Pranav Kumar Trivedi, aged about 29 years.

All are Resident of Kalika Nagar, Tifra Outpost Tifra, Police Station Sirgitti, Tashil and District Bilaspur C.G.

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

1. Mohammad Nawaj S/o Mohammad Siddique, R/o Magarpara, Bilaspur, Police Station Civil Lines, Tashil and District Bilaspur C.G. other address through Agrawal Transport, Mahuwa Complex, Old Bust Stand, Bilaspur, Tashil and District Bilaspur C.G. (Driver of Vehicle Truck No. CG10/C/2096)
2. Sanjay Agrawal S/o B.L. Agrawal, R/o through Agrawal Transport, R/o through Agrawal Transport, Mahuwa Complex, old bus stand, Bilaspur, Tashil and District Bilaspur C.G. (Owner of Vehicle Truck No. CG10/C/2096)
3. The Oriental Insurance Company Limited, through Branch Manager, Divisional Office, Rama Trade Centre, 2nd Flor, UTI Bahwan, Infront of Rajeev Plaza, Bilaspur, Tahsil and District Bilaspur C.G. (Insurer of Truck No. CG10/C/2096)

---- Respondents

For Appellants	:	Shri A.L. Singroul, Advocate.
For Respondent No.3	:	Shri R.N Pusty, Advocate.

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

1. Being aggrieved with the award dated 24.07.2018 passed in Claim Case No. 138/2015 by the 5th Additional Motor Accident Claims Tribunal, Bilaspur, C.G. the Appellants/Claimants has preferred this appeal under Section 173 of the Motor Vehicles Act, 1988.

2. The claimants/Appellants, unfortunate wife and children of deceased-Pranav Kumar Trivedi, aged about 64 years.
3. The Tribunal, on a close scrutiny of the evidence led by the parties, held that the accident had occurred due to rash and negligent driving of Truck bearing registration No. CG10-C-2096 by its driver – Mohammad Nawaj, respondent No.1, in the said accident; the Tribunal has also directed that the Respondents/non-applicants are jointly and severely liable for payment of compensation to the Claimants.
4. This appeal filed by the Claimants/Appellants only on the sole ground that the Tribunal has wrongly deducted $\frac{1}{2}$ of the income of the deceased whereas as per ***Sarla Verma (Smt.) and Others Vs. Delhi Transport Corporation and Another, (2009) 6 SCC 121***, there being three dependents, the deduction would be $\frac{1}{3}$ rd towards personal and living expenses of the deceased.
5. Learned counsel for Respondent No.3/Insurance Company opposes the contention made by the learned counsel for the Appellant and submits that only Vandana Trivedi/Appellant No.1, wife of the deceased, is dependent and Appellants 2 and 3 are not dependents. He also submits that the learned Tribunal has rightly deducted 50% towards personal expenses of the deceased and therefore, there is no need to interfere with the award impugned.
6. I have heard the learned counsel appearing for the parties and perused the impugned order including the records of the Claims Tribunal.
7. As regards the income of the deceased, it is not in dispute that the deceased was getting Rs.6,250/- per month as pension which has been duly proved before the Tribunal. In this case, the deceased was a married person and therefore in view of the decision in *Sarla Verma* (supra) $\frac{1}{3}$ rd from the annual income of the deceased is to be deducted towards personal expenses. Further, in view of the decision of Supreme Court in ***National***

Insurance Company Limited Vs. Pranay Sethi and Ors., (2017) 16 SCC 680, Tribunal has already awarded Rs.70,000/- under conventional heads.

Thus, the claimants are entitled for compensation in the following manner:

Sl.No	Head	Calculation
1.	Income of the deceased	Rs.6,250 per month i.e. Rs.75,000 per annum
2.	1/3rd deduction towards personal and living expenses of Deceased	Rs.25,000 (Rs.75,000/—Rs.25,000/-) = Rs.50,000/-
3.	Multiplier of 7 applied	Rs.50,000/- x 7 = Rs.3,50,000/-
4.	Towards conventional heads	Rs.70,000/-
	Total	Rs.4,20,000/-

8. Since the Tribunal has already awarded Rs.3,32,500/-, after deducting the same from the above amount, the Claimant is held entitled for additional compensation of Rs.87,500/-.
9. Resultantly, the appeal is allowed in part and the impugned award is modified to the extent that the Claimants/Appellants shall be entitled to a total enhanced amount of compensation of Rs.87,500/- with further direction of payment of interest on the enhanced amount of compensation @ 6% per annum from the date of filing of the claim petition till the date of actual payment.
- 10.No order as to costs.

Sd/-
(Gautam Chourdiya)
Judge

