

AFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Miscellaneous Appeal (Civil) No. 102 of 2018

1. Smt. Hemlata Turkane W/o Late Jagdev Prasad Turkane, aged about 45 years
2. Nitesh Turkane S/o Lage Jagdev Prasad Turkane, aged about 25 years
3. Kumari Nupur Turkane D/o Late Jagdev Prasad Turkane, aged about 23 years
4. Kumari Nidhi Turkane D/o Late Jagdev Prasad Turkane, aged about 20 years

All R/o Purani Basti, Mahamaipara, Near Naveen Vachnalay Thana Purani Basti, District Raipur (Chhattisgarh)

---- Appellants/Claimants

Versus

1. Sanjeev Kumar Sahu S/o Ishwar Lal Sahu, R/o Bagdehipara left side Janta Fad, Nayapara Thana Gobara Navapara, District Raipur (C.G.)
(Driver of the offending vehicle Mini Bus No. C.G.04/E/1784)
2. Santosh Kumar Sahu S/o Geeta Ram Sahu, R/o Village- Pod Thana Gobara Navapara District Raipur (C.G.)
(Owner of the offending vehicle Mini Bus No. C.G.04/E/1784)
3. The Oriental Insurance Company Limited, Through Divisional Officer, The Oriental Insurance Company Limited, Kachehari Chowk Jel Road, Raipur, District Raipur (C.G.)
(Insurer of the offending vehicle Mini Bus No. C.G.04/E/1784)

---- Respondents/Non-applicants

For Appellants	:	Shri A.L. Singroul, Advocate
For Respondents 1 & 2	:	None
For Respondent No.3	:	Shri Sudhir Agrawal, Advocate

Hon'ble Shri Justice Gautam Chourdiya, J

Judgment on Board

30.04.2019

1. This appeal is by the Claimants against the award dated 24.06.2017 passed by the Second Additional Motor Accident Claims Tribunal, Raipur (C.G.) in Claim Case No. 698 of 2015 awarding total compensation of Rs.43,69,000/- with interest @ 9% per annum from the date of application till realization, fastening liability on non-applicant No.3/Insurance Company.
2. As per claim petition, on 06.07.2015 deceased- Jagdev Prasad, 55 years, earning Rs.62,274/- per month as Deputy Director Horticulture, died in the motor vehicular accident caused due to rash and negligent driving of the vehicle Mini-Bus

bearing registration No. CG-04/E/1784 by non-applicant No.1, owned by non-applicant No.2 and insured with non-applicant No.3.

3. On claim petition being filed by the Claimants, unfortunate widow and children of deceased- Jagdev Prasad Turkane, under Section 166 of the Motor Vehicles Act, 1988, the Tribunal considering the evidence led by both the parties passed an award as mentioned above.

4. Learned counsel for the Appellants/Claimants submits that though he has raised various grounds in the memo of appeal, however, he is not pressing all those grounds and is assailing the award on the ground of non-grant of future prospects. In support thereof, reliance has been place on the decision of the Hon'ble Supreme Court in the matter of ***National Insurance Co. Ltd. Vs. Pranay Sethi, (2017) 16 SCC 680.***

5. On the other hand, learned counsel for Respondent No.3/Insurance Company supports the impugned award and submits that the Tribunal considering all the relevant aspects of the matter has rightly awarded compensation which needs no interference by this Court.

6. Heard learned counsel for the parties and perused the material available on record.

7. It is admitted that the deceased was aged about 55 years and he was a salary paid employee as Deputy Director in the office of the Deputy Director Horticulture Jagdalpur, District Bastar, therefore, looking to the nature of his job, the Claimants are entitled to 15% towards future prospect in view of decision in matter of *Pranay Sethi* (supra) and the decisions in the matter of ***Smt. Sarla Verma and others Vs. Delhi Transport Corporation and another, (2009) 6 SCC 121***, thus, the Claimants/Appellants are held entitled for compensation in the following manner:

Sl.No.	Heads	Calculation (In rupees)
1.	Income of the deceased (as considered by the Tribunal)	Rs.7,06,500/- per annum

2.	15% towards future prospects added to annual income	(Rs.7,06,500/- + Rs.1,05,975/-) Rs.8,12,475/-
3.	1/3rd deduction towards personal and living expenses of Deceased	(Rs.8,12,475/- – Rs.2,70,825/-) Rs.5,41,650/-
4.	Multiplier of 9 to be applied	Rs.5,41,650/- x 9 = Rs.48,74,850/-
5.	Loss of love and affection	Rs.20,000/- (as awarded by the Tribunal)
6.	Loss of consortium	Rs.1,00,000/- (as awarded by the Tribunal)
7.	Funeral expenses	Rs.10,000/- (as awarded by the Tribunal)
	Total Compensation	Rs.50,04,850/-

8. Since the Tribunal has already awarded Rs.43,69,000/-, after deducting the same from the above amount, the Claimants/Appellants are held entitled for additional compensation of Rs.6,35,850/- with interest @ 9% per annum from the date of application till its realization. However, rest of the conditions of the impugned award shall remain intact.

9. In the result, the appeal is allowed in part with modification in the impugned award to the above extent.

10. No order as to costs.

Sd/-
(Gautam Chourdiya)
Judge