

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 1221 of 2017**

1. Smt. Uttra Bai Ratre W/o Late Gyaan Ratre Aged About 43 Years
2. Umesh Kumar Ratre S/o Late Gyaan Ratre Aged About 25 Years
3. Dhanesh Kumar Ratre, S/o Late Gyaan Ratre Aged About 22 Years
4. Mukesh Kumar Ratre, S/o Late Gyaan Ratre Aged About 20 Years

All R/o Village Lokband Tahsil Kota Thana Kota District Bilaspur Chhattisgarh.

---- Appellants/claimants

Versus

1. Rajkumar Vadhyakar S/o Late Shyam Lal Vadhyakar Aged About 34 Years R/o Village Rani Gaon Tahsil And Thana Lormi District Mungeli Chhattisgarh Driver Of The Offending Vehicle Bus No. C. G. 10 / T / 5200.
2. Devi Prasad Tiwari S/o Bhanu Prasad Tiwari, Aged About 50 Years R/o Kapil Nager Sarkanda Thana Sarkanda Tahsil And District Bilaspur Chhattisgarh Owner Of The Offending Vehicle Bus No. C. G. 10 / T / 5200.
3. Branch Manager, The New India Insurance Company Limited, Branch Office Rama Tred Center 2nd Floor Infront Of Rajeev Plaza Old Bus Stand Tahsil And District Bilaspur Chhattisgarh. Insurer Of The Offending Vehicle Bus No. C. G. 10 / T / 5200.

---- Respondents

For Appellants	:	Shri AL Singroul, Advocate.
For Respondent No.1 & 2	:	None.
For Respondent No.3	:	Shri Anil Gulati, Advocate.

Hon'ble Shri Gautam Chourdiya, J

Judgment On Board

06/02/2019:

This appeal is by the claimants under Section 173 of the Motor Vehicles Act, 1988 against the award 31st July, 2017 passed by V Additional Motor Accident Claims Tribunal, Bilaspur (CG) in Claim Case No. 604/2016 awarding total compensation of Rs.1.82 lacs with interest @ 6% per annum from the date of application till realization, fastening liability on the non-applicant No.3/insurance company.

02. As per claim petition, on 29.9.2016 while deceased Gyan Ratre, 50 years, earning Rs.30,000/- per month by running a grocery shop was

going on foot, non-applicant No.1 Ramkumar Vadhyakar by driving vehicle bus bearing No.CG 10 T 5200 in a rash and negligent manner, dashed Gyan Ratre, as a result of which he suffered grievous injuries and died on the spot itself. At the time of accident, the offending vehicle was owned by non-applicant No.2 and insured with non-applicant No.3.

03. On claim petition being filed by the claimants, wife and children of the deceased, under Section 166 of the Motor Vehicles Act, the Tribunal considering the evidence led by both the parties passed an award as mentioned above.

04. Learned counsel for the appellants/claimants submits as under:

(i) that income of the deceased has wrongly been considered by the Tribunal as Rs.3000/- whereas the claimants pleaded that he was earning Rs.30,000/- from grocery shop. Even otherwise, as per minimum wages at the relevant time of the skilled labour, it can be taken as Rs.6000/- per month.

(ii) that 50% deduction towards personal and living is also against the law and it should have been 1/3rd looking to the number of dependents i.e. four.

(iii) that no amount towards future prospect has been granted to the claimants.

(iv) that the amount awarded under the conventional heads also being on the lower side deserves to be enhanced suitably.

In support of above contention, reliance has been placed on the decisions of the Hon'ble Supreme Court in the matters of **Smt. Sarla Verma and others VS. Delhi Transport Corporation and another, (2009) 6 SCC 121**, and **National Insurance Co. Ltd. Vs. Pranay Sethi, (2017) 16 SCC 680**.

05. On the other hand, learned counsel for the respondent/insurance company supports the impugned award and submits that the Tribunal considering all the relevant aspects of the matters has rightly awarded compensation which needs no interference by this Court. Alternatively,

he submits that as the deceased was running a grocery shop and after his death the same is being run by his family members, there is no financial loss to the claimants on account of death of the deceased.

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

07. As regards income of the deceased, though the claimants have pleaded that the deceased was earning Rs.30,000/- per month by running a grocery shop, but no documentary or oral evidence in support thereof has been adduced to substantiate the same. Therefore, in these circumstances, in absence of any proof regarding income, the income of the deceased is considered as Rs.6000/- per month as per minimum wages at the relevant time of skilled labour. Further, considering the age of the deceased i.e. 57 years, the dependency, the nature of his job and the decisions of the Hon'ble Supreme Court in *Sarla Verma*, and *Pranay Sethi* (supra), the claimants are held entitled for compensation in the following manner:

Sl. No.	Heads	Calculation (in rupees)
01.	Income of the deceased @ Rs.6,000/- per month.	72,000/- per annum
02.	10% of (i) above to be added towards future prospects.	72,000 + 7,200 = 79,200/-
03.	1/3rd deduction towards personal and living expenses of the deceased	79,200 – 26,400 = 52,800/-
04.	Multiplier of 9 to be applied	4,75,200/-
05.	Towards loss of estate, loss of consortium and funeral expenses	70,000/-
	Total compensation	5,45,200/-

Since the Tribunal has already awarded Rs.1.82 lacs, after deducting the same from the above amount, the claimants are held entitled for additional compensation of Rs.3,63,200/- with interest @

6% per annum from the date of application till realization. However, rest of the conditions of the impugned award shall remain intact.

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

Sd/

(Gautam Chourdiya)

Judge