

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 956 of 2014**

1. Smt. Meena Baghel W/o Late Harish Chandra Baghel Aged About 22 Years
2. Ku. Anjali Baghel D/o Late Harish Chandra Baghel Aged About 16 Years Minor,
3. Jethuram Baghel S/o Badak Baghel Aged About 60 Years
4. Dhananjay Kumar Baghel S/o Late Harish Chandra Baghel Aged About 3 Years Minor,

Applicant nos. 2 to 4 minor through the mother (natural guardian) appellant no.1 Smt. Meena Baghel, All R/o Gajra Chowk, Loko Kholi, Tarbahar, P.S. Tarbahar, Bilaspur, Tahsil And Distt. Bilaspur C.G.

----Appellants**Versus**

1. Shri Bashir Ahmad S/o Habib Khan Aged About 30 Years R/o Manendragarh, Distt. Korea C.G., At Post- Near Tarbahar Masjid, Bilaspur, Tah. And Distt. Bilaspur C.G.
2. Shri Moh. Naved S/o Haji Mohammad Nafij R/o Link Road, Bukhari Tyrs, Mitra Vihar, Bilaspur, Tah. And Distt. Bilaspur C.G.
3. The Oriental Insurance Company Ltd Through- Branch Manager, Bilaspur, Near Rajiv Plaza, Bus Stand Bilaspur, P.S., Tah. And Distt. (Revenue and Civil) Bilaspur C.G.

---- Respondents

For Appellants
For Respondent no.3

Shri Anand Kesharwani, Advocate.
Shri H.B. Agrawal, Senior Advocate with Shri Pankaj Agrawal, Advocate.

Hon'ble Shri Justice Gautam Chourdiya**Order On Board****25/02/2019**

1. This appeal is by the claimants against the award dated

26.03.2014 passed by the 1st Motor Accident Claims Tribunal, Bilaspur, C.G. in Claim Case No.63/2007 awarding total compensation of Rs.4,74,000/- with interest @ 6 per annum from the date of application till realization, fastening liability on the non-applicants jointly and severely.

2. As per claim petition, on 18.12.2006 deceased Harish Chandra Baghel was going on his bike with his friend Uma Shankar Ratre from Ashish Auto Mobile to Tarbahar, at that time the non-applicant no.1 driving the Tanker No. CG10/A/8148 in a rash and negligent manner, dashed the motorcycle of the deceased, as a result of which he sustained grievous injuries on his body and during treatment he died. At the time of accident, deceased was aged about 26 years, earning Rs.6,000/- per month as Auto Driver.
3. On claim petition being filed by the claimants (i.e. wife, children and parents 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.
4. No counter appeal has been filed by the respondents.
5. Learned counsel for the appellants/claimants submits as under:
 - (i) that no amount towards future prospect has been granted to the claimants.

(ii) 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, National Insurance Co. Ltd. Vs. Pranay Sethi, (2017) 16 SCC 680 & Magma General Insurance Co. Ltd. Vs. Nanuram @ Chuhru Ram and others in Civil Appeal No.9581/2018 arising out of SLP (Civil) No.3192/2018.***

6. 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.
7. Heard learned counsel for the parties and perused the material available on record.
8. The Tribunal has not awarded any amount towards future prospect whereas considering the age of the deceased 26 years and his nature of job 40% of his annual income ought to have been added thereto towards future prospect in the light of the Hon'ble Supreme Court in **National Insurance Co. Ltd Versus Pranay Sethi** reported in **(2017) 16 SCC 680**. Likewise, the amount awarded by the Tribunal under the conventional heads also deserves to be enhanced to Rs.

70,000/- . Further, considering the income of the deceased i.e. Rs.3,000/-, age of the deceased, the dependency, the nature of his job and the decisions of the Hon'ble Supreme Court in *Pranay Sethi, Sarla Verma & Magma General Insurance Co. Ltd.* (supra), the claimants are held entitled for compensation in the following manner:

S.I. No.	Heads	Calculation (in rupees)
1.	Income of the deceased @ Rs.3,000/- per month.	Rs.3,000/-x12 = Rs.36,000/- per annum (as assessed by the Tribunal)
2.	40% of (i) above to be added towards future prospects	Rs.14,400/- Rs.36,000 + Rs.14,400/- = Rs.50,400/-
3.	1/4 deduction towards personal and living expenses of the deceased	Rs.12,600/- Rs.50,400 – Rs.12,600 = Rs.37,800/-
4.	Multiplier of 17 to be applied	Rs.37,800 x 17 = Rs.6,42,600/-
5.	Towards loss of estate, loss of spousal consortium and funeral expenses	Rs.70,000/-
6.	Towards loss of Parental Consortium to appellant nos.2 & 4	Rs.50,000/- (as awarded by the Tribunal)
	Total Compensation	Rs.7,62,600/-

9. Since the Tribunal has already awarded Rs.4,74,000/-, after deducting the same from the above amount, the claimants are held entitled for additional compensation of

Rs.2,88,600/- with interest @ 6% per annum from the date of application till realization. However, rest of the conditions of the impugned award shall remain intact.

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

Sd/-
(Gautam Chourdiya)
Judge

Akhilesh