

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 1565 of 2017**

1. Rajni Sagar W/o Late Suraj Sagar, Aged About 26 Years Wife Of Deceased,
2. Yogendra Kumar Sagar S/o Late Suraj Sagar, Aged About 02 Years Son Of Deceased,
3. Pardeshi Sagar S/o Shri Thalu Ram Sagar, Aged About 68 Years Father Of Deceased,
4. Kismat Bai W/o Shri Pardeshi Sagar, Aged About 65 Years Mother Of Deceased,

Appellant No. 2 is minor through natural guardian mother Rajni Sagar W/o Late Suraj Sagar, Aged about 26 years, Occupation – Housewife R/o Sarthi Mohalla, Seoni (Champa)

All are R/o Sarthi Mohalla, Seoni, P.S. And Tahsil Champa, District Janjgir-Champa (C.G.).

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

1. Ram Kumar Sahu S/o Somnath Sahu, Aged About 28 Years R/o Adarsh Nagar Supela, House Of Sudarshan Sahu, Presently Residing At Dubey Transport Service, C.G.Market, Near Alankar Complex Power House, Bhilai, District Durg (C.G.). (Driver Of Vehicle)
2. Devendranath Dubey S/o R.L.Dubey, Aged About 55 Years R/o Dubey Transport Service, C.G.Market, Near Alankar Complex Power House, Bhilai, District Durg (C.G.) (Owner Of Vehicle).
3. United India Insurance Co. Ltd., Korba, District Korba (C.G.) (Insurer)

---- Respondents

For Appellants	:	Shri H.P. Agrawal, Advocate.
For Respondent No. 3	:	Shri Pankaj Agrawal, Advocate.

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

29/04/2019

- 1) This appeal is preferred by the claimants under Section 173 of the Motor Vehicles Act, 1988 against the award dated 12/09/2017 passed by Motor Accident Claims Tribunal, District Janjgir-Champa (C.G.) in Claim Case No. 75/2016 awarding total compensation of Rs. 9,11,500/- with interest @ 8% per annum from the date of application till realization, fastening liability on the non-applicants jointly and severally.
- 2) As per averments of claim petition, on 11/06/2016 at around 10 P.M. deceased Suraj Sagar, 30 years of age, earning Rs. 9,000/- per as skilled painter, was sitting in motorcycle bearing No. CG11 BC 9427 as pillion rider and motorcycle was driven by Santosh Sarthi with a moderate speed. However, when deceased reached near Railway station road Champa in front of Krishna Lodge, the offending Vehicle Eicher Mazda bearing No. CG07 CA 1393 driven by non-applicant No. 1 rashly and negligently dashed the deceased Suraj Sagar. As a result of this accident Suraj Sagar sustained grievous injury and died on the spot. At the time of accident the offending vehicle was owned by non-applicant No. 2/Devendranath Dubey and insured with Non-applicant No. 3/United India Insurance Co. Ltd.
- 3) On claim petition being filed by the claimants, wife, children and parents 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) Learned counsel for the appellants/claimants submits as though he has raised various grounds in this memo of appeal, however, he is not pressed on those grounds and is assailing the awards on the following grounds only :-
 - i. that income of the deceased has wrongly been considered by the Tribunal as Rs. 5500/- per month; whereas it should have been Rs. 9000 per month.

ii. that no amount towards future prospect has been granted to the claimants. Looking to the age below 30 years, the future prospect may be granted as 50%.

iii. that the amount awarded under the other 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***.

- 5) 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.
- 6) No counter appeal is filed by the respondents as submitted by both the parties.
- 7) Heard learned counsel for the parties and perused the material available on record.
- 8) As regards income of the deceased, though the claimants have pleaded that the deceased was earning Rs. 9,000/- per month as Manager but no documentary evidence in support thereof has been adduced. Therefore, in these circumstances, in absence of any proof regarding income, the income of the deceased is considered as Rs. 6,500/- per month as skilled self employed person as per minimum wages at the relevant time. Further, considering the age of the deceased i.e. 30 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 6500 per month.	(Rs. 6500x12) = Rs. 78000 per annum
02.	40 % of (i) above to be added towards future prospects.	(Rs. 78000 + 31200) = Rs. 1,09,200/-
03.	1/4 deduction towards personal and living expenses of the deceased	(Rs. 109200 – 27300) = Rs. 81900 /-
04.	Multiplier of 17 to be applied	(Rs. 81900 x 17) = Rs. 13,92,300/-
05.	Towards loss of estate, loss of consortium and funeral expenses	Rs. 70,000/-
	Total compensation	Rs. 14,62,300/-

Since the Tribunal has already awarded Rs. 9,11,500/-, after deducting the same from the above amount, the claimants are held entitled for additional compensation of Rs. 5,50,800/- with interest @ 8% per annum from the date of application till 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.

-Sd/-
(Gautam Chourdiya)
Judge