

AFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 358 of 2015**

1. Smt. Hira Yadav. W/o Late Devlal Aged About 20 Years
2. Ramnarayan Yadav S/o Shri Mangalsai Aged About 50 Years
3. Smt. Sushila W/o Shri Ramnarayan Yadav Aged About 47 Years

All are R/o Village- Podi, Police Station Khadganwa, Tahsil
Manendragarh, District Korea, Chhattisgarh, District : Koriya
(Baikunthpur), Chhattisgarh

----Appellants**Versus**

1. Ramesh Kaushik S/o Shri Chandra Datt Sharma Aged About 40 Years
R/o Behind Neharu Park, Surajpur, Police Station, Tahsil And District
Surajpur, Chhattisgarh.
2. Reliance Insurance Company Limited Ravi Bhawan, 3rd Floor, Near
Jai Stambh Chowk, Raipur District Raipur, Chhattisgarh.

---- Respondents

For Appellants	Shri Sushil Dubey, Advocate.
For Respondent no.2	Shri S.S. Rajput, Advocate.

Hon'ble Shri Justice Gautam Chourdiya
Judgment On Board

07/03/2019

1. This appeal is by the claimants against the award dated 17.12.2014 passed by 2nd Additional Motor Accident Claims Tribunal, Surajpur, District Surajpur, C.G. in Claim Case No.37/2012 awarding total compensation of Rs.4,65,000/- with interest @ 9 per annum from the date of application till realization, fastening liability on the respondent no.2/Insurance Company.

2. As per claim petition, on 15.02.2012 deceased Devlal, aged about 22 years, earning Rs.6,000/- per month as Driver, by doing agriculture and some other work, died in the motor vehicular accident caused due to rash and negligent driving of pick-up vehicle bearing no.CG15-A-6721 by non-applicant No.1/Driver & Owner. At the time of accident, the vehicle was insured with respondent no.2.
3. On claim petition being filed by the claimants i.e. Wife and Parents of Deceased Devlal Yadav under Section 166 of the Motor Vehicles Act to the tune of Rs.31,96,000/-, the Tribunal considering the evidence led by both the parties passed an award as mentioned in para 1 of this judgment.
4. Learned counsel for the appellants/claimants submits as under:
 - (i) that income of the deceased has wrongly been considered by the Tribunal as Rs.3,000/- whereas it should have been Rs.6,000/-.
 - (ii) that 1/2 deduction towards personal and living is also against the law and it should have been 1/3.
 - (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 &***

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. Heard learned counsel for the parties and perused the material available on record.
- 7. As regards income of the deceased, though the claimants have pleaded that the deceased was earning Rs.6,000/- per month as Driver, by doing agriculture and some other work but no documentary or oral 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.4,500/- per month as per minimum wages at the relevant time. Further, considering the age of the deceased i.e. 26 years, the dependency i.e. 3, the nature of his job and the decisions of the Hon'ble Supreme Court in *Sarla Verma & Pranay Sethi* (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.4,500/- per month.	Rs.54,000/- per annum
2.	40% of (i) above to be added towards	Rs.21,600/-

	future prospects.	$\text{Rs.}54,000 + \text{Rs.}21,600 = \text{Rs.}75,600/-$
3.	1/3 deduction towards personal and living expenses of the deceased	$\text{Rs.}25,200/-$ $\text{Rs.}75,600 - \text{Rs.}25,200 = \text{Rs.}50,400/-$
4.	Multiplier of 17 to be applied	$\text{Rs.}8,56,800/-$
5.	Towards loss of estate, loss of spousal consortium and funeral expenses	$\text{Rs.}70,000/-$
	Total compensation	$\text{Rs.}9,26,800/-$

Since the Tribunal has already awarded Rs.4,65,000/-, after deducting the same from the above amount, the claimants are held entitled for additional compensation of Rs.4,61,800/- with interest @ 9% per annum from the date of application till realization. However, rest of the conditions of the impugned award shall remain intact.

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

Sd/-
Gautam Chourdiya
Judge