

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****MAC No. 1352 of 2014**

1. Bharat Singh Thakur, S/o Late Anoop Singh Thakur, aged about 55 years,
2. Smt. Urvashi Thakur, W/o Bharat Singh Thakur, aged about 52 years,

Both R/o – Through Ajay Verma, House No. 2/220, Ramkund, G.E. Road, Raipur, Post Office Raipur, Police Station- Azad Chowk, Raipur, District- Raipur (C.G.).

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

1. Santuram Dhiwar, S/o Bisheshar Dhiwar, aged about 37 years, R/o- Bhatapara Chowk, Village- Hirmi, Post Office & Police Station- Suhela, District- Balodabazar- Bhatapara (C.g.).

(Driver of Vehicle Trailer bearing registration No. CG/04/JB/4947)

2. Smt. Gurmeet Kaur Gumber, W/o Jasbeer Singh Gumber, In front of Santosh Cable Operator, Near Shyam Nagar Gurudwara, Telibandha, Raipur, Post Office- Raipur, Police Station- Telibandha, District- Raipur (C.G.).

(Registered Owner of Vehicle Trailer bearing registration No. CG/04/JB/4947)

3. The Bharti Axa General Insurance Company Limited, through The Branch Manager, Branch Office, First Floor, Chawala Complex, Devendra Nagar Road, Sai Nagar, Post Office- Raipur, Police Station- Devendra Nagar, Raipur, Tahsil & District- Raipur (C.G.).

(Insurer of Vehicle Trailer bearing registration No. CG/04/JB/4947)

---- Respondent

For Appellants	: Shri Shivendu Pandya, Advocate.
For Respondent No.3	: Shri Abhishek Sinha and Shri D.L. Dewangan, Advocate.

Hon'ble Shri Gautam Chourdiya, J**Judgment On Board****05.04. 2019**

This appeal is by the claimants against the award dated 23.08.2014, passed by 2nd Additional Motor Accident Claims Tribunal, Raipur in Claim Case No.138/2012 awarding total compensation of Rs. 3,95,000/- with interest @ 6% per annum from the date of application till realization, fastening liability on the non-applicants jointly and severally.

02. As per averments made in claim petition that on 05.04.2012, deceased Lokesh Kumar Thakur, who was aged about 36 years at the time of accident and earning Rs.13,500/- per month as Service Engineer at private Company, died in the motor vehicular accident caused due to rash and negligent driving of offending vehicle bearing No. C.G. 04.JB/4947 by non-applicant No.1 – Santuram Dheever. The offending vehicle is owned by Non-applicant No. 2 and insured with the non-applicant No. 3 / Insurance Company.

03. On claim petition being filed by the claimants, who are unfortunate parents of deceased- Lokesh Kumar Thakur, 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 both the parties submitted that no counter appeal is filed by the Insurance company.

05. Learned counsel for the appellants/claimants submits that deceased- Lokesh Kumar Thakur was working as Service Engineer at Raipur and on the basis of documents [Ex. A/13 to Ex. A/20] relating to his job and attendance register submitted by the claimants/parents of the deceased, learned Claims Tribunal has assessed income of the deceased as Rs. 3,000/-pm only, which appears to be shockingly on lower side. He further submits that as per Bank statement (Ex.D-1) submitted by Ajay Kumar Giri, employee of Bank of Baroda, and also on the basis of documents Ex.A-13 to Ex.A-20 relating to job of the deceased, income of the deceased as Rs.13,500/- and, therefore, the Claims Tribunal has fallen in error in assessing income of the deceased as Rs. 3,000/- and thereby awarding low amount of compensation of Rs. 3,95,000/-, which deserves to be enhanced suitably. He also submits that at the time of accident the deceased was working as salary paid permanent employee but no amount towards future prospect has been granted to the claimants and the conventional heads are also on the lower side deserves to be enhanced

suitably. He lastly submits that no amount towards loss of filial has been granted to the claimants.

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.***

06. On the other hand, learned counsel for the respondent No. 3 /insurance company, while supporting the impugned award, submits that bank account number mentioned in the salary slip (Ex. P/13) of the deceased filed by the claimants was not of deceased Lokesh Kumar Thakur (deceased) whereas it belongs to one Lalit Kumar Thakur. As witness No. 1 of non applicant witness No. 3/Insurance Company – Seema, who is HR of Rajat Pvt. Ltd., no any account number of employee – Lokesh Kumar Thakur was mentioned in the bank account slip vide Ex. D/1. In the document Ex,D/1 account number of employer of the company is mentioned and, therefore, learned Tribunal has rightly assessed the income of the deceased and thereby awarded the amount of compensation, which does not cal for any interference in the instant appeal.

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

08. It is not disputed by both the parties that the accident occurred due to the rash and negligent driving of driver of the aforesaid offending vehicle; and there is no breach of policy in the instant case. Salary Slip (Ex. D/1) issued by Rajat Pvt. Ltd., in which name of the deceased was mentioned as an employee of the said Company.

09. Seema (Witness No.1 of non-applicant No. 3), H. R. of the Rajat Pvt. Ltd. has also been examined before the Tribuna, in which she has stated that the deceased was the employee of Rajat Equipments Pvt. Ltd and was earning Rs. 14,500/pm. In that view of the matter, it cannot be said that the documents regarding the salary of the deceased/employee is false or fabricated documents. She has also admitted in paragraph 4 of her statement that no

appointment letter was issued by the Company to its employee and only on the basis of oral direction, appointment has been made in the Company. Thus, looking to the entire evidence adduced by the claimants, it appears that deceased was working as service engineer and his earning was of Rs.14,500/ per month and, therefore, income of Rs.3,000/- assessed by the learned Claims Tribunal appears to be lower side, as such, looking to the documents Ex. A/13 to Ex. A/17, the income of the deceased ought to have been considered as Rs. 9,500/- per months (including all the applicable allowances. It is held accordingly. Further, considering the age of the deceased i.e. 36 years, the dependency, the nature of his job and the decisions of the Hon'ble Supreme Court in *Sarla Verma, Pranay Sethi, and Magma General Insurance Co. Ltd* (supra), the claimants are held entitled for compensation in the following manner:

Sl. No.	Heads	Calculation (in rupees)
01.	Income of the deceased @ Rs.9,500/- per month.	Rs. 9,500x12= Rs. 1,14,000 per annum
02.	50% of (1) above to be added towards future prospects.	114000+ 57000= Rs. 1,71,000/-
03.	After 1/2 deduction towards personal and living expenses of the deceased	1,71,000-85,500= Rs. 85,500/-
04.	Multiplier of 15 to be applied	12,82,500/-
05.	Towards loss of estate and funeral expenses	Rs. 30,000/-
06.	Towards filial consortium	Rs. 40,000/-
06.	Total compensation	Rs. 13,52,500/-

Since the Tribunal has already awarded Rs.3,95,000/-, after deducting the same from the above amount, the claimants are held entitled for additional compensation of Rs. 9,57,500/- 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

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