

**HIGH COURT OF CHHATTISGARH, BILASPUR****MAC No. 22 of 2013**

1. Smt. Tara Hotwani W/o Late Ashok Kumar Hotwani Aged About 43 Years, Caste Sindhi, R/o Amapara, Dhamtari, Tahsil Dhamtari, Dist. Dhamtari C.G., Chhattisgarh

**---- Appellant/Claimant****Versus**

1. Jakir Ansari S/o Sattar Ansari Aged About 32 Years, Caste Muslim R/o Mandir Hasaud, Dist. Raipur (C.G.).
2. Mohd. Halim S/o Abdul Rahuf, Through Yunus Ali, Maudhapara, Raipur At Present R/o Bhanpuri Road, Raipur, Dist. Raipur (C.G.)
3. Bajaj Allianz Insurance Co. Ltd. S/o Shiv Mohan Building Vidhansabha Raod, Pandri, Dist. Raipur (C.G.).
4. Indra Kumar Hotwani S/o Chandmal Hotwani, Caste Sindhi, R/o Cloth Stores Sihawa Chowk, Dhamtari, Tah. And Distt. Dhamtari (C.G.).
5. Royal Sunderam Allianz Insurance Co. Ltd., Sunderam Towers, 45-46 Whitage Road Chennai-600014 Registered Office 21 Patulas Road, Chennai 600014, Tamil Nadu.

**---- Respondents**


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|---------------------------|---|----------------------------------|
| For Appellant             | : | Shri Sanjay Agrawal, Advocate.   |
| For Respondent Nos. 3 & 5 | : | Shri Rohitashva Singh, Advocate. |

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**Hon'ble Shri Gautam Chourdiya, J****Judgment On Board****11/04/2019**

- 1) This appeal is by the claimant under Section 173 of the Motor Vehicles Act, 1988 against the award dated 29/06/2012 passed by Additional Motor Accident Claims Tribunal Dhamtari, District Dhamtari (C.G.) in Claim Case No. 31/2012 awarding total compensation of Rs. 2,00,000/- with interest @ 6% per annum from the date of application till realization, fastening liability on

the non-applicants No. 1 to 3 jointly and severally.

- 2) The factual matrix of the case in nutshell is that as per claim petition, on 29/05/2009 deceased Deepak Hotwani, 21 years, earning Rs. 6000/- per month as Salesman. Deepak Hotwani alongwith his father Ashok Hotwani at around 02:30 AM was traveling from Bilaspur to Dhamtari by Car bearing No. CG04 B 1521, which was dashed from offending vehicle Truck bearing No. CG04 Z 4325 which was parked by non-applicant No. 1 on the road in negligent manner. As a result thereof Deepak Hotwani suffered grievous injuries and died during treatment in hospital. Offending vehicle was owned by non-applicant No.2/Mohd. Halim and insured with non-applicant No. 3/Bajaj Allianz Insurance Co. Ltd. Non-applicant No. 4/Indra Kumar Hotwani is the owner of the said Car which is insured with non-applicant No. 5/Royal Sunderam Allianz Insurance Co. Ltd.
- 3) On claim petition being filed by the claimant mother 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) Learned counsel for the appellant/claimant submits as under:
  - i. that multiplier of 10 has wrongly been applied and considering the age of the deceased, it should have been 17.
  - ii. that no amount towards future prospect has been granted to the claimant.
  - iii. 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 and 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.**

- 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) So far as contributory negligence is concerned, counsel for the appellant has not disputed the same. Even otherwise the findings recorded by the Tribunal in this regard is also based on just and proper appreciation of the evidence and therefore, the said finding is hereby affirmed.
- 8) As regards income of the deceased, the claimant has pleaded that the deceased was earning Rs. 6000 per month as Salesman in Private Firm and proved the same by documents i.e. salary paid details of the deceased for the financial year 2006 to 2009 (Ex. P-13, 14 & 15). Further, considering the age of the deceased i.e. 20 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 claimant is held entitled for compensation in the following manner:

| S. N. | Heads                                                              | Calculation (in rupees)                 |
|-------|--------------------------------------------------------------------|-----------------------------------------|
| 01.   | Income of the deceased @ Rs 6000/- per month.                      | (Rs. 6000 x12) =<br>Rs. 72000 per annum |
| 02.   | 40% of (1) above to be added towards future prospects.             | (Rs. 72000 + 28000) =<br>Rs. 1,00,800/- |
| 03.   | 1/2 deduction towards personal and living expenses of the deceased | (Rs. 100800 - Rs. 50400) = Rs. 50400/-  |
| 04.   | Multiplier of 18 to be applied                                     | (Rs. 50400 x18) =<br>Rs. 9,07,200/-     |
| 05.   | Towards filial consortium (as awarded by Tribunal)                 | Rs. 5,000/-                             |
| 06.   | Towards loss of estate and funeral expenses                        | Rs. 30,000/-                            |

|     |                                               |                                       |
|-----|-----------------------------------------------|---------------------------------------|
| 07. | 50% deduction towards contributory negligence | (942200 - 471100) =<br>Rs. 4,71,100/- |
|     | <b>Total compensation</b>                     | <b>Rs. 4,71,100/-</b>                 |

Since the Tribunal has already awarded Rs. 2,00,000/-, after deducting the same from the above amount, the claimants are held entitled for additional compensation of Rs. 2,71,100/- with interest @ 6% 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**