

HIGH COURT OF CHHATTISGARH, BILASPUR

MAC No. 683 of 2013

1. Nawal Gond S/o Burju Gond Aged About 48 Years
2. Smt. Herondi Gond W/o Nawal Gond Aged About 46 Years
Caste Gond

Both R/o Village Saranda, P.S. Narharpur, Police Chowki-Dudhawa, P.O. Narharpur, Tah. Narharpur, Distt. North Bastar, Kanker C.G.

---- Appellants/claimants

Versus

1. Bhagat Sahu S/o Kejuram Sahu, Caste Teli, Aged About 21 Years R/o Village Kirwai, P.O. And P.S. Simga, Distt. Raipur C.G. (Driver of vehicle Truck bearing registration No. CG 04 J 5543.)
2. Kalyan Sahu S/o T.R. Sahu, Caste – Teli, Aged About 50 Years, Occupation Transporter, R/o Janta Colony, P.S. Gudhiyari, P.O. Raipur, Distt. Raipur C.G. (Owner of vehicle Truck bearing registration No. CG 04 J 5543.)
3. The Servicing Branch Manager The Reliance General Insurance Co. Ltd., Through The Branch Manager, Branch Office, Shop No. 412/413, 4th Floor, Ravi Bhawan, Jaistambh Chowk, P.O. Raipur, P.S. Gol Bazar, Raipur, Tah. And Distt. Raipur C.G., (Insurer of vehicle Truck bearing registration No. CG 04 J 5543.)

---- Respondents

For Appellants	:	Shri Shivendu Pandya, Advocate.
For Respondent Nos. 1 & 2	:	None.
For Respondent No.3	:	Shri SS Rajput, Advocate.

Hon'ble Shri Gautam Chourdiya, J

Judgment On Board

12/04/2019

This appeal is by the claimants under Section 173 of the Motor Vehicles Act, 1988 against the award 27th February, 2013 passed by Motor Accident Claims Tribunal, North Bastar, Kanker in Claim Case

No.96/2008 awarding total compensation of Rs.2.36 lacs with interest @ 6% per annum from the date of application till realization, fastening liability on the non-applicants jointly and severally.

02. As per claim petition, on 3rd June, 2008 deceased Prabhulal Gond, 22 years, earning Rs,3,500/- per month as a Helper, died in the motor vehicular accident caused due to rash and negligent driving of vehicle truck bearing registration No. CG 04 J/5543 by non-applicant No.1 Bhagat Sahu, which was owned by non-applicant No.2 Kalyan Sahu and insured with non-applicant No.3/Reliance General Insurance Co. Ltd.

03. On claim petition being filed by the claimants, parents of the deceased, under Section 163A of the Motor Vehicles Act, the Tribunal considering the evidence led by the parties passed an award as mentioned above.

04. Learned counsel for the appellants/claimants submits that though he has raised various grounds in memo of appeal, however, he is not pressing all those grounds and is assailing the award on the following grounds only:

(i) that 50% deduction towards personal and living is against the law and it should have been 1/3rd.

(ii) that multiplier of 12 has wrongly been applied on the basis of age of the claimants and considering the age of the deceased i.e. 22 years, it should have been 18,

(iii) that no amount towards future prospect 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***, and ***National Insurance Co. Ltd. Vs. Pranay Sethi, (2017) 16 SCC 680***.

05. 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.

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

07. The income of the deceased as assessed by the Tribunal at Rs.3,000/- per month is not in dispute. However, the Tribunal was not justified in deducting 50% towards personal and living expenses of the deceased on the basis of age of the claimants and it ought to have applied multiplier on the basis of age of the deceased i.e. 22 years. Further, the Tribunal was not justified in not granting any amount towards future prospect to the claimants. Therefore, considering the age of the deceased, 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.3,000/- per month.	36,000/- per annum
02.	40% of (i) above to be added towards future prospects.	36,000 + 14,400 = 50,400/-
03.	1/3rd deduction towards personal and living expenses of the deceased	50,400 – 16,800 = 33,600/-
04.	Multiplier of 18 to be applied	6,04,800/-
05.	Towards transportation of dead body	5,000/- (as awarded by Tribunal)
06.	Towards funeral expenses	5,000/- (as awarded by Tribunal)
07.	Towards loss of love and affection	10,000/- (as awarded by Tribunal)

	Total:	6,24,800/-
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Since the Tribunal has already awarded Rs.2.36 lacs, after deducting the same from the above amount, the claimants are held entitled for additional compensation of Rs.3,88,800/-with interest @ 6% per annum from the date of application till realization. However, rest of the conditions of the impugned award shall remain intact.

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

Sd/

(Gautam Chourdiya)

Judge