

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 927 of 2013**

1. SantoshKumar Dhruv, aged about 38 years, S/o Late Shri Jhadiram (Deleted) As Per Honble Court Order Dated 26.11.2018.
2. Rekha Dhruv W/o Santosh Kumar Dhruv Aged About 36 Years

Both are R/o Near Uslapur Over Bridge, Gram Panchayat- Mangla, Behind Kamla Gas Godown, Tahsil and District Bilaspur C.G., P.S, Civil Lines, Bilaspur.

----Appellants**Versus**

1. Dukhu Ram Nagesh S/o Umed Singh Aged About 32 Years R/o Kadaar, Post- Saagar, Tahsil Takhatpur, District Bilaspur, P.S. Takhatpur C.G.
2. United Insurance Company Ltd. Thru- Its General Manager, Rajendra Nagar Chowk, Bilaspur, Tah. And Distt. Bilaspur C.G., P.S. Civil Lines, Bilaspur.

---- Respondents

For Appellants	Ms. Rashul Bhawnani, Advocate.
For Respondent No.2	Shri H.B. Agrawal, Senior Advocate with Smt. Prabha Sharma, Advocate.

Hon'ble Shri Justice Gautam Chourdiya**Judgment on Board**

06/05/2019

This appeal is by the claimants against the award 26.09.2011 passed by 2nd Additional District Motor Accident Claims Tribunal and Additional Sessions Judge, Bilaspur, C.G. in Claim Case No.79/2011 awarding total compensation of Rs.1,85,000/- with interest @ 6% per annum from the date of application till realization, fastening liability upon non-applicant no.1/respondent no.1, while exonerating the Insurance Company/non-applicant no.2. At the time of accident,

offending vehicle was owned by non-applicant no.1/respondent no.1 and insured with non-applicant no.2/respondent no.2.

02. As per claim petition, on 17.04.2010 deceased Krishna Kumar Dhruv along with his friend Mahendra Kumar was going to his house from Sakri to Uslapur by riding motorcycle. Since non-applicant no.1 had parked vehicle tractor bearing no. CG10-D-0850 and trolley bearing no. CG10-ZG-2623 in a rash and negligent manner in front of Nature City Colony without parking light or indicator, vehicle of the deceased got dashed against the tractor trolley, as a result of which Krishna Kumar Dhruv suffered grievous injuries leading to his death on the spot. At the time of accident, Deceased-Krishna Kumar Dhruv was aged about 19 years, earning Rs.5,000/- per month as Welder.

03. On claim petition being filed by the claimants i.e. Parents of deceased under Section 166 of the Motor Vehicles Act for compensation to the tune of Rs.20,02,000/-, the Tribunal considering the evidence led by both the parties passed an award as mentioned in para 1 of this judgment.

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

(I) that income of the deceased has wrongly been considered by the Tribunal as Rs.3,000/- per month whereas it should have been Rs.5,000/- per month.

(ii) that multiplier of 15 has wrongly been applied and considering

the age of the deceased, it should have been 18.

(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.***

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. As regards income of the deceased, though the claimants have pleaded that the deceased was earning Rs.5,000/- per month as Welder 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.3,500/- per month as per minimum wages at the relevant time. Further, considering the age of the deceased i.e. 20 years as per Ex.P-3 and Ex.P-4, the dependency, 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:

Sl. No.	Heads	Calculation (in rupees)
01.	Income of the deceased @ Rs.3,500/- per month.	Rs.42,000/- per annum
02.	40% of (i) above to be added towards future prospects.	Rs.16,800/- Rs.42,000 + Rs.16,800 = Rs.58,800/-
03.	1/2 deduction towards personal and living expenses of the deceased	Rs.29,400/-
04.	Multiplier of 18 to be applied	Rs.5,29,200/-
05.	Towards loss of estate & funeral expenses	Rs.30,000/-
	Total compensation	Rs.5,59,200/-

Since the Tribunal has already awarded Rs.1,85,000/-, after deducting the same from the above amount, the claimants are held entitled for additional compensation of Rs.3,74,200/- 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

Akhilesh