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HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 1067 of 2015**

1. Jitendra Dewangan S/o Sitaram Dewangan, aged about 34 years,
 2. Budhiyarin Dewangan W/o Jitendra Dewangan aged about 30 years,
- Both are R/o Village- Basin, Tahsil Pathariya, District- Mungeli (C.G.)

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

1. Jashvir Singh S/o Darshan Singh (Goprai) aged about 33 years, (Driver of alleged vehicle bearing registration No. CG07/CA-4477) R/o A.C.C. Labour Camp Jamul, Bhilai, Police Station Jamul, District Durg (C.G.).
2. Jagjit Singh Saini S/o Balihar Singh, aged about 37 years, (Owner of alleged vehicle bearing registration No. C.G. 07/CA-4477) R/o HIG 1-2194, Housing Board Industrial Area Bhilai, P.S. Jamul District Durg (C.G.)
3. The Magma H.D.I. General Insurance Company Limited, Megma House- 24, Park Street, Kolkata (West Bengal).

---- Respondents

For Appellants	: Shri C. K. Sahu, Advocate.
For Respondent No.3	: Shri Abhishek Sinha, Advocate with Shri D. L. Dewangan, Advocate.

Hon'ble Shri Gautam Chourdiya, J**Judgment On Board****26.06.2019**

This appeal under Section 173 of the Motor Vehicle Act is by the claimants/parents of the deceased against the award dated 05.05.2015, passed by Additional Motor Accident Claims Tribunal, Mungeli in Claim Case No.39/2013 awarding total compensation of Rs. 1,00,000/- alongwith interest @ 6% per annum from the date of application till realization, fastening liability on the non-applicants jointly and severely.

02. As per claim petition, on 26.04.2013, Payal Dewangan, aged about 07

years, student, died in the motor vehicular accident caused due to rash and negligent driving of offending vehicle (Truck) bearing registration No. CG07-CA/4477 by non-applicant No.1. The vehicle is owned by non-applicant No. 2- Jagjeet Singh Saini and insured with Non-applicant No. 3- Megma H.D.I. General Insurance Company Ltd.

03. On claim petition being filed by the claimants/parents 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.

04. Learned counsel appearing for the appellants/claimants submits that the learned Tribunal committed error in not assessing the income of the deceased for the purpose of computation of compensation ignoring the fact that at the time of accident, the deceased was the student and her future would be very bright by getting education and job etc, therefore it is prayed that the income of the deceased ought to have been considered as Rs. 4,500/- pm as notional basis. He also submits that learned Tribunal has also not applied the multiplier looking to the age of the deceased i.e. seven years, it ought to have been applied as 15.

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, the learned Tribunal has not assessed any income of the deceased, the deceased at the relevant point of time, was the student and considering her bright future, the income of the deceased can safely be considered as Rs. 4,500/-pm as notional basis. At the time of accident the deceased was aged about 07 years therefore, multiplier of 15 would be applicable in the instant case. Further, considering

the age of the deceased 7 years, 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.4,500/- per month.	Rs. 4,500x12= 54,000/- per annum
02.	40% of (1) above to be added towards future prospects.	Rs. 54000+21,600= Rs. =75,600/-
03.	After 1/2 deduction towards personal and living expenses of the deceased	Rs. 37,800/-
04.	Multiplier of 15 to be applied	Rs. 37,800x15= Rs. 5,67000/-
05.	Towards loss of estate & funeral expenses	Rs. 30,000/-
07	Total compensation	Rs. 5,97,000/-

Since the Tribunal has already awarded Rs.1,00,000/-, after deducting the same from the above amount, the claimants are held entitled for additional compensation of Rs. 4,97000/- 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