

AFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 775 of 2014**

1. Smt. Rejina Toppo And Ors. W/o Late Dinesh Toppo Aged About 30 Years R/o Village- Parsa, Tah. Kunkuri, P.S. Kunkuri, Distt. Jashpur C.G., At Present- R/o Bhagalpur, Jashpur Nagar, Distt. Jashpur C.G., Chhattisgarh
2. Minor Prince Toppo S/o Late Dinesh Toppo Aged About 10 Years Through- Mother Smt. Rejina Toppo, R/o Village- Parsa, Tah. Kunkuri, P.S. Kunkuri, Distt. Jashpur C.G., At Present- R/o Bhagalpur, Jashpur Nagar, Distt. Jashpur C.G.
3. Korleniyus Toppo S/o Late Patras Toppo Aged About 56 Years R/o Village- Parsa, Tah. Kunkuri, P.S. Kunkuri, Distt. Jashpur C.G., At Present- R/o Bhagalpur, Jashpur Nagar, Distt. Jashpur C.G., District : Jashpur, Chhattisgarh
4. Smt. Meri Toppo W/o Korleniyus Toppo Aged About 54 Years R/o Village- Parsa, Tah. Kunkuri, P.S. Kunkuri, Distt. Jashpur C.G., At Present- R/o Bhagalpur, Jashpur Nagar, Distt. Jashpur C.G.
5. Shobha Toppo D/o Korleniyus Toppo Aged About 22 Years W/o Kamlesh Kumar, R/o Bhagalpur, P.S. Jashpur, Jashpur Nagar, Distt. Jashpur C.G.

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

1. Suraj Kumar S/o Kamlesh Prasad Aged About 45 Years R/o Sahjanand Colony, Near Dr. B.N. Singh, Jhrudih, Dhanbaad Jharkhand,
2. Manoj Kumar Bhagat S/o Satyanarayan Bhagat Aged About 39 Years R/o Gandhi Nagar, Dhansar, P.S. Dhansar, Distt. Dhanbaad Jharkhand, District : Dhanbad, Jharkhand
3. Tata A.I.G. General Insu.Co.Ltd. S/o A-501, 5th Floor Building No. 04, Infinity Park, Dindochi Malad E, Mumbai, Maharashtra- 400097, District : Mumbai, Maharashtra
4. Jakhariyus Tirki S/o Late Piyush Tirki Aged About 50 Years R/o Pharsa, Sirimkela, Dandadih, Tah. Kunkuri, Distt. Jashpur C.G., District : Jashpur, Chhattisgarh
5. The Oriental Insu. Co. Ltd. S/o Local Branch Office, Raigarh, Distt. Raigarh C.G., District : Raigarh, Chhattisgarh

-----Respondents

Judgment On Board

This appeal is by the claimants against the award dated 29.04.2014 passed by Additional Motor Accident Claims Tribunal (FTC), Jashpur in Claim Case No.16/2013 awarding total compensation of Rs. 4,42,000/- with interest @ 6% per annum from the date of application till realization, fastening liability on the non-applicant Nos. 1,2 &3 jointly and severally.

02. As per claim petition, on 06.02.2012, deceased Dinesh Toppo, aged about 30 years, earning Rs.10,000/- per month as electrician died in the motor vehicle accident caused due to rash and negligent driving of vehicle(Truck) bearing registration No. CG04-JB/3564 by non-applicant No.2 Manoj Kumar. The offending vehicle is owned by non-applicant No. 1-Suraj Kumar and insured with non-applicant No. 3.

03. On claim petition being filed by the claimants 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 the appellants/claimants submits as under:

(i) that income of the deceased has wrongly been considered by the Tribunal as Rs. 3,000/-per month i.e. Rs. 36,000/- per annum whereas looking to his job, it should have been Rs. 6,000/-.

(ii) that 1/3rd deduction towards personal and living is also against the law and it should have been 1/4th.

(iv) that no amount towards future prospect has been granted to the claimants.

(v) that the amount awarded under the conventional heads also being on the lower side deserves to be enhanced suitably. No amount towards loss of filial and other consortium has been granted.

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.***

05. On the other hand, learned counsel for the respondent no. 3/insurance company submits that multiplier of 18 has wrongly been applied and considering the age of the deceased i.e. 30 years, it should have been 17. He further submits that the except multiplier, the Tribunal considering 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.6,000/- per month as electrician and by work of agriculture but no documentary or oral evidence in support thereof has been adduced. Therefore, in these circumstances, in absence of any proof regarding income, the income of the deceased can safely be taken as Rs.4,000/- per month as per minimum wages at the relevant time. At the time of accident, the age of the deceased was 30 years, as per Apex Court Judgment in the matter of Sarla Verma (Smt.) the multiplier of 17 would be applicable instead of 18. Further, considering the dependency, the nature of his job and the decisions of the Hon'ble Supreme Court in *Sarla Verma, Pranay Sethi, 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. 4,000/- per month.	Rs. 4,000x12= Rs.48,000/- per annum
02.	40% of (1) above to be added towards future prospects.	Rs. 48,000+19,200/-= Rs. 67,200/-
03.	After 1/4th deduction towards personal and living expenses of the deceased	Rs.67,200- 16,800= Rs. 50,400/-
04.	Multiplier of 17 to be applied	Rs. 8,56,800/-
05.	Towards loss of estate, loss of consortium and funeral expenses	Rs. 70,000/-
06.	Toward parental consortium to respondent No. 2	Rs. 20,000/-
07	Total compensation	Rs. 9,46,800/-

Since the Tribunal has already awarded Rs. 4,42,000/-, after deducting the same from the above amount, the claimants are held entitled for additional compensation of Rs.5,04,800/- 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