

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 540 of 2016**

1. Trilochan Yadav S/o Chaturbhuj Yadav, aged about 56 years,
2. Smt. Ayala W/o Trilochan Yadav, aged about 50 years,

Both R/o Village Paterapali, Thana and Tahsil Saraipali, District-
Mahasamund (C.G.).

---- Appellants/Claimants

Versus

1. Gopichand Yadav S/o Ratanlal Yadav, aged about 38 years, R/o Village Memra, Thana Pithora, District- Mahasamund (C.G.) (Driver of truck No. C.G. 04-JA-9074).
2. Pradeep Agrawal S/o Babulal Agrawal, R/o Pithora, District- Mahasamund (C.G.) (Owner of Truck No. C.G. 04-JA-9074)
3. Divisional Manager, Divisional Officer, The New India Assurance Company Limited Raipur Divisional Office No. 1 (450200) First Floor, Madina Building, Kutchery Chowk, Raipur (C.G.) (Insurer of truck No. C.G.04- JA-9074)
4. Amit Kumar Chauhan S/o Manglu Chauhan, R/o Bansal Auto, Saraipali, Thana and Tahsil Saraipali, District- Mahasamund (C.G.) (Owner of Motor Chcle No. C.G. 06-G-9514).
5. I.C.I.C.I. Lombard Insurance Company Limited, through Branch Manager, Branch Office, Devendra Nagar, Raipur (C.G.) (Insurer of Motorcycle No. C.G. 06-G-9514).

---- Respondents

For Appellants	:Shri S. S. Rajput, Advocate.
For Respondent No.3	:Shri Samir Singh, Advocate.
For Respondent No.4	:None
For Respondent No. 5	:Shri Dashrath Gupta, Advocate on behalf of Shri Saurabh Sharma, Advocate.

Hon'ble Shri Gautam Chourdiya, J
Judgment On Board

02.05.2019

This appeal is by the claimants against the award dated 15.03.2016, passed by Additional Motor Accident Claims Tribunal Saraipali, District Mahasamund, C.G. in Claim Case No. 07/2015 awarding total compensation of Rs. 3,29,880/- with interest @ 6% per annum from the date of application till realization, fastening liability on the non-applicant No. 3.

02. As per claim petition, on 23.04.2014, deceased Satyaveer Yadav, 22 years, seven months earning Rs.8,500/- per month as sales manager at Bansal Auto, Saraipali, died in the motor vehicular accident caused due to rash and negligent driving of the offending vehicle (truck) bearing registration No. CG04JA/9074 by non-applicant No.1- Gopichand Yadav. The vehicle is owned by Non-applicant No. 2 -Pradeep Agrawal and insured with Non-applicant No.3- Divisional Manager, The New India Assurance Company Ltd.

03. On claim petition being filed by the claimants/parents of the deceased-Satyaveer Yadav under Section 166 of the Motor Vehicles Act, the Tribunal considering the evidence led by both the parties passed an award as mentioned para one of the judgment.

04. Learned counsel for the appellants/claimants submits that at the time of accident, the deceased was working at Bansal Auto, Saraipali as salesman and earning Rs. 8500/- but the learned Tribunal wrongly considered the income of the deceased as Rs. 5,000/- per month. He also submits that multiplier of 15 has wrongly been applied and considering the age of the deceased i.e. 22 years, seven months, it should have been 18. He further submits that no amount towards future prospect has been granted to the claimants and the amount awarded under the conventional heads also being on the lower side deserves to be enhanced suitably. He additionally prays that the amount awarded towards love & affection to the parents may be convert as loss of filial.

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 supports the impugned award and submits that the claimants have not adduced any evidence or documents regarding the income of the deceased, therefore the Tribunal has rightly assessed the income of the deceased as Rs. 5,000/-. He further submits that the Tribunal considering all the relevant aspects of the matters and has rightly awarded compensation which needs no interference by this Court.

06. Learned counsel for the respondent No. 5 also supports the award impugned and submits that there is no need to interfere with the award.

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

08. As regards income of the deceased, though the claimants have pleaded that the deceased was earning Rs.8,500/- per month as salesman 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 considered as Rs.6,000/- per month as per minimum wages at the relevant time. At the time of accident, the age of the deceased was 22 years, seven months, therefore, as per Apex Court Judgment in the matter of Sarla Verma (Smt.) the multiplier of 18 would be applicable instead of 15. Looking to the age of the deceased as above stated and the nature of work, 40 % future prospect would be added into the income of the deceased In the light of Supreme Court judgment Magma General Insurance Co. Ltd. Vs. Nanuram @ Chuhru Ram & Ors. (supra), the amount awarded towards love & affection to the

parents of the deceased as Rs. 20,000/- by the Tribunal is kept intact. Further, 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 (smt.), *Pranay Sethi, Magma General Insurance Co. Ltd. and* (supra), the claimants are held entitled for compensation in the following manner:

Sl. No.	Heads	Calculation (in rupees)
01.	Income of the deceased @ Rs.6,000/- per month.	Rs. 6,000x12= Rs. 72,000/- per annum
02.	40% of (1) above to be added towards future prospects.	Rs. 72,000+28800= Rs. 1,00800/-
03.	1/2 deduction towards personal and living expenses of the deceased	Rs. 50,400/-
04.	Multiplier of 18 to be applied	Rs. 50400x18= Rs. 9,07,200/-
05.	Towards loss of estate, loss of consortium and funeral expenses	Rs. 30,000/-
06	Toward filial consortium	Rs. 20,000/- (as awarded by the Tribunal)
07	Total compensation	Rs. 9,57,200/-

Since the Tribunal has already awarded Rs.3,29,880/-, after deducting the same from the above amount, the claimants are held entitled for additional compensation of Rs. 6,27,320/- with interest @ 6% per annum from the date of application till realization. However, rest of the conditions of the impugned award shall remain intact.

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

Sd/-

(Gautam Chourdiya)
Judge