

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 577 of 2014**

1. Suntibai W/o Late Sajjan Bhaskar Aged About 38 Years
2. Ku. Dropati D/o Late Sajjan Bhaksar, aged about 20 years,
3. Kum. Ratnamani D/o Late Sajjan Bhaskar, aged about 18 years,
4. Ajay Kumar S/o Late Sajjan Bhaskar, aged about 13 years,
5. Arjun Kumar S/o Late Sajjan Bhaskar, aged about 8 years,
6. Ku. Ragini D/o Late Sajjan Bhaskar, aged about 10 years

Appellant Nos. 4 to 6 are minor through legal guardian mother
Suntibai W/o Late Sajjan Bhaskar

7. Majari Bai W/o Late Samaru Bhaskar, aged about 65 years,

All are caste of Satnami Village Lalpur, Police Chowki Fasteerpur,
Tashil & District Mungeli, C.G.

----Appellants**Versus**

1. Rambhav Singh Thakur S/o Shri Pardeshi Thakur, Aged About
19 Years R/o Village Hathkera, Pathariya District Mungeli, C.G.
Present Address Navagasrh Road Mungeli, C.G.

(Driver Of Alleged Ofending Vehicle Radheshyam But Bearing
Registration No. C.G. 04E/0617)

2. M.P. Road Wares Address Neer Block Office, Main Road
Bhatapara, District Baloda Bazar, C.G.

Owner of alleged offending vehicle Radheshyam Bus bearing
registration No. CG04E/0617

3. The Oriental Insurance Company Limited, Bhatapara, District
Baloda Bazar, C.G.

Insurer of alleged ofending vehicle Radheshyam Bus Bearing
Registration No. CG04E/0617

---- Respondents

For Appellant
For Respondent no.3

Shri C.K. Sahu, Advocate.
Shri Arvind Shrivastava, Advocate.

Hon'ble Shri Justice Gautam Chourdiya

Judgment on Board

19/02/2019

1. This appeal is by the claimants against the award dated 06.03.2014 passed by the Additional Motor Accident Claims Tribunal, Mungeli, District Bilaspur, C.G. in Claim Case No.60/12 awarding total compensation of Rs.3,10,000/- with interest @ 6 per annum from the date of application till realization, fastening liability on the Insurance Company along with non-applicants.
2. As per claim petition, on 17.07.2012 deceased Sajjan Bhaskar, aged about 38 years, earning Rs.300-400/- per day as Mason and also doing tiles fitting work, died in the motor vehicular accident caused due to rash and negligent driving of vehicle bus bearing registration no. CG04-E-0617 by non-applicant No.1/respondent no.1. At the time of accident, vehicle was owned by respondent no.2 and insured with respondent no.3.
3. On claim petition being filed by the claimants i.e. wife and children of the deceased under Section 166 of the Motor Vehicles Act to the tune of Rs.15,50,000/-, the Tribunal considering the evidence led by both the parties passed an

award as mentioned above.

4. Learned counsel for the appellants/claimants submits as under:

- (i) that income of the deceased has wrongly been considered by the Tribunal as Rs.2,500/- per month whereas it should have been Rs.9,000 - Rs.12,000/- per month.
- (ii) that 1/3rd deduction towards personal and living is also against the law and it should have been 1/5.
- (iii) that multiplier of 15 has wrongly been applied and considering the age of the deceased.
- (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.

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.***

5. 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.

- 6. No counter appeal has been filed by the respondents as submitted by both the parties.
- 7. Heard learned counsel for the parties and perused the material available on record.
- 8. As regards income of the deceased, though the claimants have pleaded that the deceased was earning Rs.300-400/- per day as Mason and also doing tiles fitting work 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.4,500/-per month as per minimum wages at the relevant time. Further, considering the age of the deceased i.e. 42 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.54,000/- per annum
02.	25% of (i) above to be added towards future prospects.	Rs.13,500/- Rs.54,000 + Rs.13,500 =

		Rs.67,500/-
03.	1/5 deduction towards personal and living expenses of the deceased	Rs.13,500/- Rs.67,500 - Rs.13,500 = Rs.54,000/-
04.	Multiplier of 14 to be applied	Rs.7,56,000/-
05.	Towards loss of estate, loss of consortium and funeral expenses	Rs.70,000/-
	Total compensation	Rs.8,26,000/-

Since the Tribunal has already awarded Rs.3,10,000/- after deducting the same from the above amount, the claimants are held entitled for additional compensation of Rs.5,16,000/- 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

Akhilesh