

AFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 645 of 2015**

1. Smt. Sharda Teta W/o Late Sudarshanlal Teta Aged About 43 Years
2. Dhiraj Kumar Teta S/o Late Sudarshanlal Teta Aged About 16 Years
3. Ku. Apurva Teta S/o Late Sudarshanlal Teta Aged About 12 Years

R/o Village Ranvahi, Thana and Tahsil Bhanupratappur, District Uttar Bastar, Kanker

Appellants No. 2 & 3, being minor through mother Smt. Sharda Teta.

----Appellants

Versus

1. Komal Sahu S/o Late Uderam Sahu Aged About 35 Years R/o Sivanikhurda, Thana Lalbagh, District- Rajnandgaon, Chhattisgarh.
2. National Insurance Company Ltd. Through Branch Manager, Branch Office Kamptee Line, Rajnandgaon, Chhattisgarh.

---- Respondents

For Appellants
For Respondent no.2

Shri Shalvik Tiwari, Advocate.
Shri Anil Gulati, Advocate.

Hon'ble Shri Justice Gautam Chourdiya
Order On Board

13/03/2019

1. This appeal is by the claimants against the award dated 30.03.2015 passed by the Additional Motor Accident Claims Tribunal, Bhanupratappur, District North Bastar Kanker, C.G. in Claim Case No.33/2013 awarding total compensation of Rs.32,56,176/- with interest @ 6 per annum from the date of application till realization, fastening liability on the non-applicants jointly and severely.
2. As per claim petition, on deceased Sudharshan Lal Teta, aged

about 45 years, earning Rs.28,073/- per month as Naib Tashildar, died in the motor vehicular accident caused due to rash and negligent riding of motorcycle bearing no. CG08-J-7313 by non-applicant No.1/Driver & Owner. At the time of accident, vehicle was insured with non-applicant no.2.

3. On claim petition being filed by the claimants i.e. wife and children under Section 166 of the Motor Vehicles Act, 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 no amount towards future prospect has been granted to the claimants.

(ii) 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/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. No counter appeal has been filed by the respondents as submitted by both the parties.

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

08. So far as the income of the deceased is concerned, the Tribunal was justified in assessing the income of the deceased as Rs.28,073/- per month as per Ex.P-21 i.e. salary certificate. However, no amount towards future prospect has been granted by the Tribunal. Therefore, considering the judgment of the Hon'ble Supreme Court in *Pranay Sethi*, (supra), 30% of the annual income is to be added thereto towards future prospect.

Further, considering the age of the deceased i.e. 45 years, the dependency i.e. 3, 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.28,073/- per month.	Rs.3,36,876/-per annum
02.	30% of (i) above to be added towards future prospects.	Rs.1,01,062/- Rs.3,36,876 + Rs.1,01,062 = Rs.4,37,938/-
03.	1/3 deduction towards personal and living expenses of the deceased	Rs.1,45,979/- Rs.4,37,938 – Rs.1,45,979 = Rs.2,91,959/-
04.	Multiplier of 14 to be applied	Rs.40,87,426/-

05.	Towards loss of estate, loss of spousal consortium and funeral expenses	Rs.70,000/-
06.	Towards Medical Expenses	Rs.82,000/-
07.	Towards filial consortium to claimants no. 2 & 3 @ Rs.15,000/- each.	Rs.30,000/-
	Total Compensation	Rs.42,69,426/-

Since the Tribunal has already awarded Rs.32,56,176/-, after deducting the same from the above amount, the claimants are held entitled for additional compensation of Rs.10,13,250/- 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