

AFR

**HIGH COURT OF CHHATTISGARH, BILASPUR****MAC No. 1267 of 2014**

1. Smt. Sonbai Wd/o Heerasai Suryavanshi Aged About 60 Years
2. Nand Kumar S/o Heerasai Suryavanshi Aged About 37 Years
3. Smt. Sushila D/o Heerasai Suryavanshi Aged About 26 Years,  
wife of Teras

All are R/o Village Baghauda, Tah. Champa, P.S. Champa, Dist.  
Janjgir-Champa C.G., District : Janjgir-Champa, Chhattisgarh

**---Appellants****Versus**

1. Hansram S/o Banmali Aged About 43 Years R/o Vill. Bhadaripali,  
Tahsil Sakti, Dist. Janjgir-Champa C.G.
2. Mohd. Hasan Khan S/o Ali Ahmad Khan R/o Old High Court  
Road, Bilaspur, Beside Shiv Talkies, Dist. Bilaspur C.G.
3. Chola Mandalam Insurance Company Ltd., through its Branch  
Manager, Office of Chola Mandalam Insurance Company Ltd.  
Anand Hotel, Bus Stand, Bilaspur C.G.,

**---- Respondents**


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|---------------------------|------------------------------------------------|
| For Appellants            | Shri R.S. Patel, Advocate.                     |
| For Respondent Nos. 1 & 2 | Shri Shyam Sunderlal Tekchandani,<br>Advocate. |
| For Respondent No.3       | Shri Ghanshayam Patel, Advocate.               |

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**Hon'ble Shri Justice Gautam Chourdiya****Judgment on Board**

26/03/2019

01. This appeal is by the claimants against the award dated  
01.08.2014 passed by 2<sup>nd</sup> Additional Motor Accident Claims  
Tribunal, Janjgir-Champa, C.G. in Claim Case No.13/2014  
awarding total compensation of Rs.2,60,000/- with interest @ 6%

per annum from the date of application till realization, fastening liability on the non-applicants jointly and severally.

02. As per claim petition, on deceased Ram Kumar Suryavanshi, aged about 32 years, earning Rs.25,000/- per month as Doctor, died in the motor vehicular accident caused due to rash and negligent driving of bus bearing no.CG10-K-0603 by non-applicant No.1. At the time of accident, offending vehicle was owned by non-applicant no.2 and insured with non-applicant no.3

03. On claim petition being filed by the claimants i.e. Mother, Major Brother and Sister of deceased under Section 166 of the Motor Vehicles Act for compensation to the tune of Rs.1,01,40,000/-, the Tribunal considering the evidence led by both the parties passed an award as mentioned in para 1 of this judgment.

04. Learned counsel for the appellants/claimants submits that though he has raised various grounds in the memo of appeal, however, he is not pressing all those grounds and is assailing the award on the following grounds:-

(i) that income of the deceased has wrongly been considered by the Tribunal as Rs.5,000/- per month whereas it should have been Rs.25,000/- per month looking to the job of the deceased.

(ii) that multiplier of 8 has wrongly been applied and considering the age of the deceased, it should have been 16.

(iii) that no amount towards future prospect has been

granted to the claimants.

(iv) 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 respondents support the impugned award and submit that the Tribunal considering all the relevant aspects of the matter 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. As regards income of the deceased, though the claimants have pleaded that the deceased was earning Rs.25,000/- per month as Doctor but no documentary evidence in support thereof has been adduced by the claimants. Therefore, in these circumstances, in absence of any proof regarding income, the income of the deceased Rs.5,000/- per month considered by the

Tribunal is just and proper as per minimum wages at the relevant time. Further, considering the age of the deceased i.e. 32 years, 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.5,000/- per month.                   | Rs.60,000/- per annum                                     |
| 02.     | 40% of (i) above to be added towards future prospects.           | Rs.24,000/-<br><br>Rs.60,000 + Rs.24,000<br>= Rs.84,000/- |
| 03.     | ½ deduction towards personal and living expenses of the deceased | Rs.42,000/-                                               |
| 04.     | Multiplier of 16 to be applied                                   | Rs.6,72,000/-                                             |
| 05.     | Towards loss of estate and funeral expenses                      | Rs.30,000/-                                               |
| 06.     | Towards loss of filial consortium to claimant no.1               | Rs.5000/- (as awarded by the Tribunal)                    |
| 07.     | Towards loss of love and affection to claimants no.2 & 3         | Rs.10,000/- (as awarded by the Tribunal)                  |
|         | <b>Total Compensation</b>                                        | <b>Rs.7,17,000/-</b>                                      |

Since the Tribunal has already awarded Rs.2,60,000/-, after deducting the same from the above amount, the claimants are held entitled for additional compensation of Rs.4,57,000/- with interest as awarded by the Tribunal. 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