

HIGH COURT OF CHHATTISGARH, BILASPUR

MAC No. 645 of 2014

1. Smt. Kirti Bai W/o Chaitram Bargah Aged About 38 Years
2. Ku. Usha Bargah D/o Late Chaitram Bargah Aged About 21 Years
3. Sandeep Kumar Bargah S/o Late Chaitram Bargah Aged About 18 Years
4. Deepak Bargah S/o Late Chaitram Bargah Aged About 13 Years
5. Amit Kumar Bargah S/o Late Chaitram Bargah Aged About 9 Years

Nos. 4 & 5 Minor, Through- Natural guardian mother Smt. Kirti Bai Wd/o Late Chaitram Bargah, aged about 38 years

All are R/o Ghuthiya, Post- Baitalpur, P.S. Hirri, Tah. A Nd Distt. Bilaspur C.G., District : Bilaspur, Chhattisgarh

----Appellants/Claimants

Versus

1. Ishwar Patre S/o Mangalu Patre Aged About 29 Years R/o Rasouta, P.S. Palari, Distt. Raipur C.G.
2. Ramsay Satnami S/o Punau Satnami R/o Binouri, Post- Kosmadi, P.S. Palari, Distt. Raipur C.G.
3. The New India Assurance Company Ltd. Thru- Divisional Manager, In Front Of Rajeev Plaza, Bus Stand, Bilaspur, Tah. And Distt. Bilaspur C.G.
4. Ajay Aditya S/o Manharan Lal Aditya Aged About 29 Years R/o Shivarinarayan, P.S. Shivrinarayan, Distt. Janjgir-Champa C.G., At Present R/o Jhawank Motors, Pachpedi Naka, Tah. And Distt. Raipur C.G.
5. The United India General Insurance Company Ltd. Through- Branch Manager, Branch Office, Rajendra Nagar Chowk, Near Haribhoomi Press, Bilaspur C.G.

---- Respondents

For Appellants	Shri A.P. Sharma, Advocate with Shri Manish Thakur, Advocate.
For Respective Respondents	Shri Azad Siddique, Advocate, Shri Dashrath Gupta, Advocate & Shri Rikhiraj Baghel Advocate.

Hon'ble Shri Justice Gautam Chourdiya

Judgment on Board

29/01/2019

1. This appeal is by the claimants against the award dated 25.03.2014 passed by 6th Additional Motor Accident Claims Tribunal, Bialspur, District Bilaspur, C.G. in Claim Case No.29/2012 awarding total compensation of Rs.13,63,166/- with interest @ 7.5 per annum from the date of application till realization, fastening liability on the non-applicants no. 1 & 2 jointly and severally while exonerating non-applicants no. 3 to 5.
2. As per claim petition, on 06.02.2011 deceased Chaitram Bargah, 43 years, earning Rs.20,000/- per month working as Assistant Grade III, died in the motor vehicular accident caused due to rash and negligent driving of Tractor bearing no. CG04-DB-4312 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.
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 for compensation to the tune of Rs.23,25,000/-, the Tribunal considering the evidence led by both the parties passed an award as mentioned above in para 1 of this judgment.
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.***

- 5. 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 matters has rightly awarded compensation which needs no interference by this Court.
- 6. Heard learned counsel for the parties and perused the material available on record.
- 7. In this case, Tribunal has not awarded any amount towards future prospect to the claimants whereas in view of decision in Pranay Sethi (supra), considering the fact that the deceased was a Permanent Government Salary Paid Employee, and was in the age group of 41-45 years, 30% of his annual earning ought to have been added thereto towards future Prospect. Further, considering the age of the deceased i.e. 42, the dependency i.e. 5 persons, 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.10,541/-	Rs.1,26,492/- per annum

	per month.	
02.	30% of (i) above to be added towards future prospects.	Rs.37,947/- Rs.1,26,492 + Rs.37,947 = Rs.1,64,439/-
03.	1/4 deduction towards personal and living expenses of the deceased	Rs.41,109/- Rs.1,64,439 – Rs.41,109 = Rs.1,23,330/-
04.	Multiplier of 14 to be applied	Rs.17,26,620/-
05.	Towards loss of estate, loss of spousal consortium and funeral expenses	Rs.70,000/-
06.	Towards loss of parental consortium to claimant nos. 2 to 5 @ Rs.10,000/- each.	Rs.40,000/-
	Total Compensation	Rs.18,36,620/-

Since the Tribunal has already awarded Rs.13,63,166/-, after deducting the same from the above amount, the claimants are held entitled for additional compensation of Rs.4,73,454/- with interest @ 7.5% 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

Akhilesh