

AFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 995 of 2014**

1. Smt. Urmila Bai W/o Late Maniram Sahu Aged About 32 Years
2. Kumari Kiran D/o Late Maniram Sahu Aged About 13 Years
3. Kumari Neelu D/o Late Maniram Sahu Aged About 11 Years
4. Kamalesh S/o Late Maniram Sahu Aged About 9 Years
5. Narendra S/o Late Maniram Sahu Aged About 7 Years
6. Vishvanath Sahu S/o Chowaram Sahu Aged About 60 Years

Applicant Nos. 2 to 05 minor through the mother nautral guardian
 appellant no.1 Smt. Urmila Bai, All R/o Village Bahtarai, P.S.
 Sarkanda, Bilaspur, Tah. And Distt. Bilaspur C.G.

---Appellants**Versus**

1. Santosh Shivpuri S/o Rajendra Prasad R/o House No. 22/41, Indira Nagar, Mandir Hasaud, P.S. Mandir Hasaud, District Revenue and Civil, Raipur C.G. (Driver of the Truck No. CG04-ZC-7023)
2. Dilip Kumar Keshwani S/o Attarchand Keshwani R/o In Front of C.M. House, Near Kachahari Chowk, Civil Line, Raipur, P.S. Civil Line, Raipur, Distt. Raipur C.G.
3. The New India Insurance Company Ltd. Through Branch Manager, Branch Office, Rama Trade Centre, Near Rajiv Plaza, Bilaspur, P.S., Tah. And District Revenue and Civil Bilaspur, C.G. (Insurer of the Truck No.CG04-ZC-7023)
4. M/s Kalindi Ispat Private Ltd. Plot No. 11, 12, 13, 14, Sector-B, Industrial Area, Sirgitti, Bilaspur, Tah. And District Revenue and Civil, Bilaspur C.G. (Owner of the Truck No.CG10-C-5761)

---- Respondents

For Appellants	Shri Anand Kesharwani, Advocate.
For Respondent No.3	Shri Qamrul Aziz, Advocate.

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

20/02/2019

This appeal is by the claimants against the award dated 23.06.2014 passed by the 4th Additional Member to 1st Additional Motor Accident Claims Tribunal, Bilaspur, C.G. in Claim Case No.56/13 awarding total compensation of Rs.7,10,000/- 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 16.02.2013 deceased Maniram Sahu, aged about 35 years, earning Rs.5,000/- per month along with Rs.50/- per day allowance as Driver, died in the motor vehicular accident caused due to rash and negligent driving of Truck bearing no.CG04-ZC-7023 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. wife, children and father of deceased under Section 166 of the Motor Vehicles Act for compensation to the tune of Rs.11,50,000/-, 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 only:

- (i) that income of the deceased has wrongly been considered by the Tribunal looking to the job of the deceased i.e. Driver.
- (ii) that no amount towards future prospect has been granted to the claimants.

(iii) 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.***

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

07. As regards income of the deceased, though the claimants have pleaded that the deceased was earning Rs.5,000/- per month along with Rs.50/- per day allowance as Driver 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 assessed by the Tribunal as Rs.5,000/- per month is just and proper as per minimum wages at the relevant time. Further, considering the age of the deceased i.e. 36 years, the dependency i.e. 6 persons, 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:

S.I. 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/- Rs.60,000 + Rs.24,000 = Rs.84,000/-
03.	1/4 deduction towards personal and living expenses of the deceased	Rs.21,000/- Rs.84,000 – Rs.21,000 = Rs.63,000/-
04.	Multiplier of 15 to be applied	Rs.9,45,000/-
05.	Towards loss of estate, loss of spousal consortium and funeral expenses	Rs.70,000/-
	Total compensation	Rs.10,15,000/-

Since the Tribunal has already awarded Rs.7,10,000/-, after deducting the same from the above amount, the claimants are held entitled for additional compensation of Rs.3,05,000/- with interest @ 6% per annum from the date of application till realization. However, rest of the conditions of the impugned award shall remain intact.

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

Sd/-
(Gautam Chourdiya)
Judge