

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 647 of 2014**

1. Ashrani Bai W/o Lakhan Prasad aged about 24 years (Husband).
2. Aanand Kumar S/o Lakhan prasad aged about 07 Years (father).
3. Aakash Kumar S/o Lakhan Prasad aged about 05 Years (father).
4. Sundermani W/o Narayan Prasad aged about 50 years. (Mother)

Minor represented through his natural guardian mother Ashrani Bai.

All R/o Village- Mama Bhanca Thana Citi Kotwali Mungeli District- Bilaspur (C.G.).

---- Appellants/Claimants

Versus

1. Deelip Kumar S/o Ram Narayan aged about 28 years vehicle driver Haiva Track No. CG. 10-M/0346, R/o Village- Chhataona Thana- Hirri District- Bilaspur (C.G.).
2. Brajesh Kumar S/o Jhumuk Lal Sharma aged about 39 years. Vehicle owner Haiva Track No. CG10-M/0346, R/o Village Ranhgi Thana District- Bilaspur (C.G.).
3. The Relience General Insurance Comapny Ltd. Shaop No 412-413 Fourth Tal Ravi Bhawan Jai Stambh Chouk Raipur (C.G.) (Haiva Track Insurance)

---- Respondents

For Appellants	:	Shri A. L. Singrol, Advocate.
For Respondent No.3	:	Shri Saurabh Sharma, Advocate.

Hon'ble Shri Gautam Chourdiya, J

Judgment On Board

21.02. 2019

This appeal is by the claimants against the award dated 30.04.2014 passed by the Additional Motor Accident Claims Tribunal,

Mungeli in Claim Case No. 52/2013 awarding total compensation of 3,50,000/- with interest @ 6% per annum from the date of application till realization, fastening liability on the non-applicant No. 3.

02. As per claim petition, on 26.04.2013 deceased Lakhan Prasad Jangde, aged about 29 years, earning Rs.10,000/- per month as mason, died in the motor vehicle accident caused due to rash and negligent driving of vehicle Haiva Truck bearing registration No. CG10M/0346 by non-applicant No.1 Deelip Kumar.

03. On claim petition being filed by the claimants/wife, children & mother of the deceased- Lakhan Prasad Jangde under Section 166 of the Motor Vehicles Act, the Tribunal considering the evidence led by both the parties passed an award as mentioned above.

04. Learned counsel for the appellants/claimants submits that the income of the deceased has wrongly been considered by the Tribunal as Rs.100/- per day and further considering only 25 working days in one month and assessed Rs. 25,00/- per month whereas it should have been considered as Rs.5,000/- per month income looking to the minimum wages at the relevant time. He also submits that the 1/3rd deduction towards personal and living expenses is also against the law and it should have been 1/4th. He further submits that no amount towards future prospect has been granted to the claimants and 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.10,000/- per month as mason but no documentary or oral evidence in support thereof has been adduced. Therefore, in these circumstances, in absence of any proof regarding income, the income of the deceased would be considered as Rs.5,000/- per month as unskilled labour as per minimum wages at the relevant time. Further, considering the age of the deceased i.e. 30 years (as considered by the Tribunal), 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.5,000 per month.	Rs. 5,000x12= Rs. 60,000/- per annum
02.	40% of (i) above to be added towards future prospects.	Rs. 60,000+ 24,000= Rs. 84,000/-
03.	1/4th deduction towards personal and living expenses of the deceased	Rs. 84,000-21,000= Rs. 63,000/-
04.	Multiplier of 17 to be applied	Rs. 63,000x17= Rs. 10,71,000/-
05.	Towards loss of estate, loss of consortium and funeral expenses	Rs. 70,000/-
	Total compensation	Rs. 11,41,000/-

Since the Tribunal has already awarded Rs.3,50,000/-, after deducting the same from the above amount, the claimants are held entitled for additional compensation of Rs.7,91,000/- with interest @

6% per annum from the date of application till realization. However, rest of the conditions of the impugned award shall remain intact. It is directed that the Insurance Company shall pay the amount of compensation of Rs.7,91,000/- to the claimants along with interest within a period of two months from the order.

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

Sd/-

(Gautam Chourdiya)

Judge

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