

AFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 50 of 2014**

1. Lavli @ Devika D/o Ghanshyam Das Manikpuri Aged About 19 Years
2. Neelam D/o Ghanshyam Das Manikpuri Aged About 17 Years
3. Kumari Harsha D/o Ghanshyam Das Manikpuri Aged About 15 Years
4. Ajay S/o Ghanshyam Das Manikpuri Aged About 13 Years

Appellant Nos. 2 to 4 are Minor, Through- their Mother Smt. Omprabha W/o Late Shanshyam Das Manikpuri

5. Smt. Omprabha W/o Late Ghanshyam Das Manikpuri Aged About 43 Years
6. Kumari Evan D/o Late Manrakhan Das Manikpuri Aged About 32 Years

All are R/o Stationpara, Dhamtari, Tahsil And Distt. Dhamtari C.G.

---Appellants

Versus

1. Tarun Kumar S/o Kiratram Aged About 28 Years R/o Singarbhata, P.O. Kendri, P.S. And Tah. Abhanpuri, District Raipur C.G.
2. Komal Prasad Verma D/o Late Hemlal Verma R/o Singarbhata, P.O. Kendri, P.S. And Tahsil Abhanpuri, Distt. Raipur C.G.
3. Divisional Manager, United India Insurance Company Ltd., Dewshri Talkies Road, Dhamtari, Tahsil And District Dhamtari C.G.

---- Respondents

For Appellants	Shri Kunal Das, Advocate.
For Respondent Nos. 1 & 2	Shri S.P. Sahu, Advocate.
For Respondent No.3	Smt. Chitra Shrivastava, Advocate.

Hon'ble Shri Justice Gautam Chourdiya**Judgment on Board****06/02/2019**

This appeal is by the claimants against the award dated 22.07.2013 passed by Additional Motor Accident Claims Tribunal (FTC),

Dhamtari, District Dhamtari, C.G. in Claim Case No.19/2013 awarding total compensation of Rs.9,33,510/- 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 15.01.2012 deceased Dr. Ghanshyam Das, aged about 55 years, earning Rs.1,10,000/- per annum as Doctor, died in the motor vehicular accident caused due to rash and negligent driving of Safari Car bearing no. CG04-ZV-1000 by non-applicant No.1/respondent no.1. At the time of accident, offending vehicle was owned by non-applicant no.2/respondent no.2 and insured with non-applicant no.3/respondent no.3.

03. On claim petition being filed by the claimants i.e. wife, children and unmarried sister of deceased under Section 166 of the Motor Vehicles Act for compensation to the tune of Rs.29,00,000/-, 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 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 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 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.

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

07. In this case, the Tribunal has not awarded any amount towards future prospect whereas considering the age of the deceased i.e. 53 years and his nature of job 10% of his annual income ought to have been added thereto towards future prospect in the light of the Hon'ble Supreme Court in **National Insurance Co. Ltd Versus Pranay Sethi** reported in **(2017) 16 SCC 680**. Likewise, the amount awarded by the Tribunal under the conventional heads also deserves to be enhanced to Rs.70,000/-. Further, considering the income of the deceased i.e. Rs.1,09,760/- per annum, age of the deceased i.e. 53, the dependency i.e. 4 to 6, the nature of his job and the decisions of the Hon'ble Supreme Court in *Pranay Sethi, Sarla Verma & 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.1,09,760/- per annum
02.	10% of (i) above to be added towards future prospects.	Rs.10,976/- Rs.1,09,760 + Rs.10,976 =Rs. 1,20,736/-
03.	1/4 deduction towards personal and living expenses of the deceased	Rs.30,184/- Rs.1,20,736 – Rs.30,184 = Rs.90,552/-
04.	Multiplier of 11 to be applied	Rs.9,96,072/-
05.	Towards loss of estate, loss of spousal consortium and funeral expenses	Rs.70,000/-
06	Towards loss of parental consortium to claimants 1 to 4 @ Rs.15,000/- each.	Rs.60,000/-
	Total Compensation	Rs.11,26,072/-

Since the Tribunal has already awarded Rs.9,33,510/-, after deducting the same from the above amount, the claimants are held entitled for additional compensation of Rs.1,92,562/- 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