

HIGH COURT OF CHHATTISGARH, BILASPUR

MAC No. 1415 of 2016

- Smt. Sevati Bai W/o Khemraj Sahu, Aged About 43 Years
- Khemraj Sahu S/o Goverdhan Sahu, Aged About 46 Years

Both are R/o Village Sambalpur, Tahsil Bhanupratappur, District North Bastar Kanker, ChhattisgarhClaimants.

---- Appellants

Versus

1. Bhuneshwar Kureti S/o Mohan Kureti, Aged About 39 Years R/o Village Kutarwahi P.S. And Tahsil Bhanupratappur District North Bastar Kanker, ChhattisgarhDriver
2. M/s Simran Enterprises Hemant Sahu S/o Anirudh Sahu, Aged About 44 Years, Tiraha Road Imalipara Kanker Tahsil Kanker District North Bastar Kanker, ChhattisgarhOwner.
3. The Oriental Insurance Co. Ltd. Regional Office R.K. Plaza Pachpedi Naka Ring Road No.1 Raipur District Raipur, ChhattisgarhInsurer

---- Respondents

For Appellants	:	Shri PK Dhurandhar, Advocate.
For Respondent No.1	:	None though served.
For Respondent No.2	:	Shri K.P.S. Gandhi, Advocate.
For Respondent No.3	:	Shri Raj Awasthi, Advocate.

Hon'ble Shri Gautam Chourdiya, J

Judgment On Board

26/02/2019

This appeal is by the claimants under Section 173 of the Motor Vehicles Act, 1988 against the award 30.8.2016 passed by Motor Accident Claims Tribunal, North Bastar, Kanker in Claim Case No.97/2015 awarding total compensation of Rs.13,91,300/- with interest @ 9% per annum from the date of application till realization, fastening liability on the non-applicant No.3/insurance company jointly

and severally along with non-applicants No. 1 & 2/driver & owner.

02. As per claim petition, on 24.2.2014 deceased Somen Sahu, 22 years, earning Rs.5,000/- per month by taking tuitions, was travelling in Indico Car bearing No. CG 04 KT 2595, which was being driven by non-applicant No.1, owned by non-applicant No.2 and insured with non-applicant No.3. However, non-applicant No.1 by driving the said vehicle in a rash and negligent manner, dashed it against a stationary vehicle Tata 1109 bearing No. 05 B 3895 and thereafter, hit the tree. As a result of this, Somen Sahu suffered grievous injuries and ultimately succumbed to the same.

03. On claim petition being filed by the claimants, mother and father of the deceased, under Section 166 of the Motor Vehicles Act, the Tribunal considering the evidence led by the parties passed an award as mentioned above.

04. Learned counsel for the appellants/claimants submits as under:

(i) that monthly income of the deceased has wrongly been considered by the Tribunal as Rs.3000/- whereas it should have been Rs.5,000/-.

(ii) that the amount awarded toward funeral expenses of Rs.5,000/- being on the lower side deserves to be enhanced suitably. Further, no amount towards loss of estate has been granted by the Tribunal.

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**, and **National Insurance Co. Ltd. Vs. Pranay Sethi, (2017) 16 SCC 680**.

05. On the other hand, learned counsel for the respondents submit that the Tribunal considering all the relevant aspects of the matters has rightly assessed income of the deceased and awarded compensation under the conventional heads. However, they submit that the Tribunal has wrongly granted 50% towards future prospect and considering the

age and nature of job of the deceased, it should have been 40%.

06. No counter appeal has been filed by the respondents as submitted by learned counsel for the parties.

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

08. As regards income of the deceased, considering the facts and circumstances of the case, the pleadings of the claimants, the certificates of educational qualification of the deceased filed and proved by the claimants, it would be justifiable to consider his income as Rs.5,000/- per month. Therefore, considering the age of the deceased i.e. 21 years, the dependency, the nature of his job and the decisions of the Hon'ble Supreme Court in *Sarla Verma* and *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.	60,000/- per annum
02.	40% of (i) above to be added towards future prospects.	60,000 + 24,000 = 84,000/-
03.	50% deduction towards personal and living expenses of the deceased	42,000/-
04.	Multiplier of 18 to be applied	7,56,000/-
05.	Toward medical expenses	8,80,300/- (as awarded by Tribunal)
06.	Towards loss of estate and for funeral expenses.	30,000/-
07.	Towards loss of love and affection.	20,000/- (as awarded by Tribunal)
	Total:	16,86,300/-

Since the Tribunal has already awarded Rs.13,91,300/-, after

deducting the same from the above amount, the claimants are held entitled for additional compensation of Rs.2,95,000/- with interest @ 9% per annum from the date of application till realization. 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