

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 242 of 2016**

1. Shyam Lal, S/o Bhangiya Ram Sahu, aged about 47 years.
2. Mukeshwari, D/o Shyam Lal Sahu aged about 29 years.
3. Tukesh, S/o Shyam Lal Sahu, aged about 27 years.
4. Dhall Singh, S/o Shyam Lal Sahu, aged about 25 years.
5. Pritika, D/o Shyam Lal Sahu, aged about 22 years.

All R/o Village- Tarragondi, Tahsil- Kurud, District- Dhamtari (C.G.).

---Appellants/Claimants**Versus**

1. Chandrabhan Sahu S/o Shri Ramcharan @ Munna Sahu, R/o Village- Kosmanda, P.S- Dashrangpur, Kawardha, At present- Khurisiparr, Kali Mandir, Machhli Market, Quarter No. K.C.C. 65 E, Bhilai, District- Durg (C.G.) (driver of the alleged vehicle registration bearing No. CG07/C/3236)
2. Sunil Kumar Gupta, S/o- Shivnandan Gupta, aged about 47 years, R/o- Camp-1 Bhilai, Shed No.-18, Pragati Nagar, Bhilai, District- Durg (C.G.) (Owner of the alleged vehicle registration bearing No. -CG07/C/3236)
3. New India Insurance Company Limited, Madina Building, Jail Road Raipur, District- Raipur (C.G.) (Insurer of the alleged vehicle registration bearing No. -CG07/C/3236)

---- Respondents

For Appellants	: Shri Pushkar Sinha, Advocate.
For Respondent Nos. 1 & 2	: Shri Samir Singh, Advocates
For Respondent No. 3	: Shri P. Dhurandhar, Advocate

Honble Shri Justice Gautam Chourdiya**Judgment On Board****08/02/2019**

1. This appeal is by the claimants against the award dated

02.11.2015, passed by Chief Motor Accident Claims Tribunal, Dhamtari, in Claim Case No.58/2015, awarding total compensation of Rs. 3,71,000/- with interest @ 6% per annum from the date of application till realization, fastening liability on the non-applicants jointly and severely.

2. As per claim petition, on 09.02.2015, deceased Godavari bai, aged about 45 years, earning Rs.6,000/- per month as labour, died in the motor vehicular accident caused due to rash and negligent driving of vehicle (tanker) bearing No. C.G.07-C/3236 by non-applicant No.1. The vehicle was owned by Non-applicant No. 2 and insured with non-applicant No. 3.
3. On claim petition being filed by the claimants under Section 166 of the Motor Vehicles Act, the Tribunal considering the evidence led by both the parties passed an award as mentioned above.
4. Learned counsel for the appellants/claimants submits that the Tribunal was not justified in assessing the income of the deceased as Rs.3,000/- per annum whereas even if the minimum wages at the relevant time is considered, their per month income can be taken as Rs.6,000/-. He also submits that the Tribunal has not awarded any amount towards future prospect and considering the age of the deceased i.e. 45 years, 25% should have been granted under this head. It is further submitted that the Tribunal has awarded a meager sum towards funeral expenses, loss of estate and consortium. 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.***
5. 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

6. Heard learned counsel for the parties and perused the material available on record.
7. Though, the claimant has pleaded that the deceased were earning Rs.6,000/- per month as an agricultural labour, however, no evidence in support thereof has been adduced by him. In these circumstances, their monthly income can safely taken as Rs.5,000/- per month as per minimum wages prevalent at the relevant time. Further, considering the age of the deceased person i.e. 45 years, the claimants are also entitled for 25% addition to their annual income towards future prospect. Thus, considering the age of the deceased, 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:

S.I. No.	Heads	Calculation (in rupees)
1.	Income of the deceased @ Rs.5,000/- per month.	Rs. 5,000x12= Rs.60,000/- per annum
2.	25% of (1) above to be added towards future prospects.	Rs.60,000 +15,000 = Rs.75,000/-
3.	After 1/3rd deduction towards personal and living expenses of the deceased	Rs. 75,000-25,000= Rs 50,000/-
4.	Multiplier of 14 to be applied	Rs. 50,000x14= Rs.7,00000/-
5.	Towards loss of estate, funeral expenses and consortium	Rs.70,000/-
6.	Total Compensation	Rs.7,70,000/-

Since the Tribunal has already awarded Rs.3,71000/-, after deducting the same from the above amount, the claimants are held entitled for

additional compensation of Rs.3,99,000/-. This additional amount of compensation as also the amount awarded by the Tribunal shall carry interest @ 6% per annum from the date of claim petition till realization. However, rest of the conditions of the impugned award shall remain intact.

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

**Sd/-
(Gautam Chourdiya)
Judge**