

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 257 of 2019**

1. Smt. Kunwariya Bai W/o Late Ranjeet Sahu Aged About 44 Years,
2. Mahesh Sahu S/o Late Ranjeet Sahu Aged About 24 Years
3. Ku. Nagina Sahu D/o Late Ranjeet Sahu Aged About 23 Years
4. Ku. Diksha Sahu D/o Late Ranjeet Sahu Aged About 22 Years
5. Dhanush Ram Sahu S/o Late Naresh Sahu Aged About 80 Years
6. Smt. Bisahin Bai W/o Dhanush Ram Sahu Aged About 75 Years

R/o Quarter No. S-5,7 Batalion, C.A.F. Line Bhilai District Durg Chhattisgarh.

----Appellants/Claimants**Versus**

1. Manoj Masih S/o Late Yesu Das Aged About 49 Years R/o Village Azad Mohalla ,ward No. 20, Camp 1,18 Number Road, district Durg Chhattisgarh. (Driver Of Offending Car No. CG- 08-1090)
2. Jashpal Singh S/o Harbhajan Singh R/o Santara, Badi, Ward No. 25,behind Gurudwara, police Station Mohan Nagar ,district Durg Chhattisgarh (Owner Of The Offending Car No. CG-08-1090)
3. Manager United India Insurance Company Limited ,tara Complex ,G.E. Road Power House Police Station Chhawani District Durg Chhattisgarh. (Insurer Of Offending Car No. CG-08-1090)

---- Respondents

For Appellants
For Respondents

Shri Vinod Kumar Sharma, Advocate.
None.

Hon'ble Shri Justice Gautam Chourdiya**Order On Board****04/02/2019**

1. Heard on **I.A. No.1**
2. This is an application for condonation of delay of 15 days in filing the MAC.
3. For the reasons mentioned in the application and which is duly supported by affidavit, the same is allowed and delay in filing the MAC is condoned.
4. Also heard on admission.
5. This appeal is by the claimants against the award dated 27.09.2018 passed by 1st Additional Motor Accident Claims Tribunal, Durg, C.G. in Claim Case No.448/2016 awarding total compensation of Rs. 37,14,721 with interest @ 7% per annum from the date of application till realization, fastening liability on the Insurance Company.
6. As per claim petition, on 13.08.2016 deceased Ranjeet Sahu, aged about 47 years, earning Rs.34,575/- per month as Head Constable in 14 Battalion, District Balod, died in the motor vehicular accident caused due to rash and negligent driving of car bearing registration no.CG08-1090 by non-applicant No.1.
7. 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.
8. Learned counsel for the appellants/claimants submits as under:

(I) that income of the deceased considered by the Tribunal is on lower side.

(ii) that the amount awarded under the conventional heads and future prospect also being on the lower side deserves to be enhanced suitably.

(iii) that the Tribunal has considered the 7% simple interest in place of 12%.

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.***

9. Heard learned counsel for the appellants and perused the material available on record.
10. So far as the income of the deceased is concerned, the Tribunal considering the salary slips of the deceased Ex.P-11 to Ex.P-28 according to which the deceased was drawing salary of Rs.23,963, assessed the income of the deceased as Rs.23,963/-. Further, as per Ex.P-29 the date of birth of the deceased is 01.07.1968 and as such on the date of accident he was 47 years of age. In this case, there are total 6 dependents on the deceased and therefore, the Tribunal deducted $\frac{1}{4}^{\text{th}}$ towards personal and living expenses of the deceased. The Tribunal considering the judgments of the Hon'ble Supreme court in **Pranay Sethi & Sarla Verma** (supra), applied multiplier of 13, granted 30% towards future prospect and further awarded Rs.70,000/- under the conventional heads, thus, the total

compensation assessed by the Tribunal comes to Rs.37,14,721/-.

The assessment so made by the Tribunal is based on just and proper appreciation of the material available on record and strictly in accordance with law. Therefore, this Court find no illegality or infirmity in the award impugned warranting interference by this Court.

11. In the result, appeal being without any substance is liable to be dismissed at the admission stage itself and is, accordingly, dismissed.

Sd/-
Gautam Chourdiya
Judge

Akhilesh