

HIGH COURT OF CHHATTISGARH, BILASPUR

MAC No. 348 of 2015

1. Ramashankar Shrivastava S/o Panchram Shrivastava Aged About 19 Years
2. Panchram S/o Pardeshi Ram Shrivastava, Aged About 53 Years
3. Smt. Sona Bai W/o Panchram Shrivastava Aged About 50 Years
4. Ku. Indu D/o Panchram Shrivastava Aged About 16 Years minor through legal guardian father Panchram Shrivastava, son of Pardeshi Ram,

All R/o Baridih, PS Ratanpur, Distt. Bilaspur (CG)

---- Appellants/claimants

Versus

1. Sandeep Pandey S/o Amrit Lal Pandey, occupation Driver, R/o Village Khaira, Post Khaira, P.S. Garh, Reewa, At Present Luping Gases Private Limited Sarora, Raipur, District Raipur, Chhattisgarh (Driver)
2. Luping Gases Private Limited 04 Mandir Path, Choubey Colony, Raipur, Tahsil And District Raipur, Chhattisgarh (Owner)
3. Branch Manager, Future Generali Insurance Company Limited Branch Office Shop No. 03, 2nd Floor, Maruti Business Park, Near Dhuppal Petrol Pump, Raipur, Tahsil And Distt.- Raipur, Chhattisgarh

---- Respondents

For Appellants	:	Shri Purushottam Das, Advocate.
For Respondent Nos. 1 & 2	:	None though served.
For Respondent No.3	:	Shri Rohitashva Singh, Advocate.

Hon'ble Shri Gautam Chourdiya, J

Judgment On Board

27/03/2019

This appeal is by the claimants under Section 173 of the Motor Vehicles Act, 1988 against the award dated 2.1.2015 passed by 7th

Additional Motor Accident Claims Tribunal, Bilaspur (CG) in Claim Case No.225/2014 awarding total compensation of Rs.5.44 lacs 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 9.7.2013 at around 4 pm Rambharos Shrivastava, aged 24 years, earning Rs.150-200/- per month by running a grocery shop and doing agricultural work, along with his friends was standing by the side of the road. At that time, non-applicant No.1 Sandeep Pandey by driving the vehicle Swaraj Majda bearing No. CG 04 JC 4388, owned by non-applicant No.2 and insured with non-applicant No.3, in a rash and negligent manner, dashed Rambharos Shrivastava. As a result of this accident, Rambharos suffered grievous injuries and died during treatment in the hospital.

03. On claim petition being filed by the claimants, parents, brother and sister 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 though the deceased was 24 years of age as per findings recorded by the Tribunal but the multiplier of 17 has been applied whereas it should have been 18;

(ii) that no amount towards future prospect has been granted to the claimants.

(iii) that 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 and 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 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. 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. It is not disputed by the parties that at the time of accident, the deceased was 24 years of age and the Tribunal has also recorded finding to this effect. Therefore, considering the age of the deceased, the fact that he was bachelor, the dependency, the nature of his job and the decisions of the Hon'ble Supreme Court in *Sarla Verma* and *Pranay Sethi* and *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.4,500/- per month.	54,000/- per annum
02.	40% of (i) above to be added towards future prospects.	54,000 + 21,600 = 75,600/-
03.	50% deduction towards personal and living expenses of the deceased	37,800/-
04.	Multiplier of 18 to be applied	6,80,400/-
05.	Towards loss of estate and funeral expenses	30,000/-
06.	Towards loss of filial consortium and love and affection @ Rs.10,000/- each to the claimants	40,000/- (as awarded by Tribunal)
	Total:	7,50,400/-

Since the Tribunal has already awarded Rs.5.44 lacs, after deducting the same from the above amount, the claimants are held entitled for additional compensation of Rs.2,06,400/- with interest @ 6% 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