

HIGH COURT OF CHHATTISGARH, BILASPUR

MAC No. 160 of 2016

1. Khorbaharin Bai W/o Shri Lilaram Yadav, Aged About 52 Years
2. Lilaram Yadav S/o Shri Dukharam Yadav, Aged About 54 Years

Both R/o Village Darri, Post Office Temari, Police Station Nandghat, Tahsil Navagarh, District Bemetara Chhattisgarh.....

---- Appellants

Versus

1. Kalindri Bai Yadav Wd/o Late Shri Ravikumar Yadav, Aged About 22 Years R/o Village Karahi, Police Station Bemetara, Tahsil Bemetara, District Bemetara Chhattisgarh
2. Ku. Monika Yadav D/o Late Shri Ravikumar Yadav, Aged About 2 Years Minor Through Her Mother Kalindri Bai Yadav, Wd/o Late Shri Ravi Kumar Yadav, Aged About 22 Years, R/o Village Karahi, Police Station Bemetara, District Bemetara Chhattisgarh
3. Ajaypal Singh S/o Shri Surendra Singh Rajput, Aged About 38 Years R/o House No. D-5, Shila Parisar, S-1, Bhartiya Nagar, Civil Line Bilaspur, District Bilaspur Chhattisgarh Owner Of Truck No. C G 10 C 7389
4. The Branch Manager, The New India Insurance Company Limited, 1st Floor Chouhan Complex Supela, Bhilai, District Durg Chhattisgarh.....Insurer Of Truck No. C G 10 C 7389

---- Respondents

For Appellants	:	Mr. RR Soni, Advocate.
For Respondent Nos. 1 & 2	:	Ms. Priya Sharma, Advocate.
For Respondent No.3	:	Mr. Pramod Shrivastava, Adv.
For Respondent No.4	:	Mr. Samir Singh, Advocate.

Hon'ble Shri Gautam Chourdiya, J

Judgment On Board

04/04/2019

This appeal is by the parents of the deceased/non-applicants No. 3 & 4 under Section 173 of the Motor Vehicles Act, 1988 against the

award 29th June, 2015 passed by Motor Accident Claims Tribunal, Bemetara (CG) in Claim Case No.98/2014 awarding total compensation of Rs.4.55 lacs with interest @ 6% per annum from the date of application till realization, fastening liability on the non-applicant No.2/insurance company. It has been further directed that out of Rs.4.55 lacs, claimant No.1 Kalindri Bai (wife of the deceased) shall be entitled for Rs.3.55 lacs, claimant No.2 Ku. Monika Yadav (daughter of the deceased) shall be entitled for Rs.50,000/- and non-applicants No. 3 & 4 (parents of the deceased, appellants herein) shall be entitled for Rs.25,000/- each.

02. As per claim petition, on 20.4.2014 non-applicant No.1 Ajay Pal Singh by driving truck bearing No. CG 10 C 7389, which is owned by himself and insured with non-applicant No.2, in a rash and negligent manner, dashed the motorcycle Hero Honda bearing No. CG 10 5257 which was being ridden by deceased Ravi Kumar. As a result of this accident, Ravi Kumar suffered grievous injuries, he was taken for treatment to hospital and during treatment in CIMS, Bilaspur, he died on the same day.

03. On claim petition being filed by the claimants, wife and daughter 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 submits as under:

- (i) that income of the deceased has wrongly been considered by the Tribunal as Rs.3000/- per month whereas it should have been Rs.15,000/- per month which he was earning as a mason,
- (ii) that multiplier of 17 has wrongly been applied and considering the age of the deceased i.e. 25 years, it should have been 18,
- (iii) that no amount towards future prospect has been granted to the claimants, which comes to 40% in this case,
- (iv) 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. Learned counsel for the respondents No. 1 & 2/claimants also supports the contention of the appellants whereas counsel appearing for respondents No. 3 & 4 support the impugned award.

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

07. As regards income of the deceased, though the claimants have pleaded that the deceased was earning Rs.15,000/- per month as mason, but no documentary evidence in support thereof has been adduced. Therefore, in these circumstances, in absence of any proof regarding income, the income of the deceased is considered as Rs.5,500/- per month as per minimum wages at the relevant time. Further, considering the age of the deceased i.e. 25 years, the dependency, the nature of his job and the decisions of the Hon'ble Supreme Court in *Sarla Verma, 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.5,500/- per month.	66,000/- per annum
02.	40% of (i) above to be added towards future prospects.	66,000 + 26,400 = 92,400/-
03.	1/3rd deduction towards personal and living expenses of the deceased	92,400 – 30,800 = 61,600/-

04.	Multiplier of 18 to be applied	11,08,800/-
05.	Towards loss of estate, loss of spousal consortium and funeral expenses	70,000/-
06.	Towards transportation expenses	2,000/- (as awarded by Tribunal)
07.	Towards loss of parental consortium to claimant No.2	10,000/- (as awarded by Tribunal)
08.	Towards loss of filial consortium to non-applicants No. 3 & 4 (appellants herein) @ Rs.10,000/- each.	20,000/- (as awarded by Tribunal)
	Total :	12,10,800/-

Since the Tribunal has already awarded Rs.4.55 lacs, after deducting the same from the above amount, the additional compensation comes to Rs.7,55,800/-, which shall carry interest @ 6% per annum from the date of application till realization. Out of this additional amount of compensation, appellant No.1 shall be entitled for Rs.1.50 lacs and appellant No.2 for Rs.50,000/-, and the remaining amount shall be apportioned in favour of the claimants/respondents No. 1 & 2 herein in the same manner as has been done by the Tribunal. 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