

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 1419 of 2017**

1. Jawahar Dhruvanshi S/o Shriram Kishun Dhruvanshi aged about 36 years.
2. Smt. Jethiya Bai W/o Jawahar Dhruvanshi aged about 33 years.

Both are R/o Village- Barela Thana Jarhagaon Tahsil Mungeli, District-Mungeli (Chhattisgarh).

---- Appellants/Claimants

Versus

1. Dharmendra Singh S/o Dhirsingh Lodhi (Driver of the offending vehicle Truck No. R. J. 2757) R/o- Devi Nagar Bilaspur Tahsil & Distt.- Bilaspur (C.G.).
2. Indrapal Chandrakar S/o Ram Nihora Chandrakar aged about 38 years (owner of the offending vehicle Truck No. R. J. 2757) R/o- Teacher Nager Mungeli Tahsil & Distt.- Mungeli (C.G.).
3. Megma H. D. I. General Insurance Company Limited, Megma House- 24 Park Smit Calcutta Pashchim (Bangal).

---- Respondents

For Appellants	:	Shri A. L. Singroul, Advocate.
For Respondent No.3	:	Shri Rohitashav Singh, Advocate.

Hon'ble Shri Gautam Chourdiya, J

Judgment On Board

24.06.2019

This appeal is filed under Section 173 of the Motor Vehicle Act by the claimants/parents against the award dated 16.03.2016, passed by Additional Motor Accident Claims Tribunal, Mungeli in Claim Case No.47/2014 awarding total compensation of Rs. 1,00000/- with interest @ 6% per annum from the date of application till realization, fastening liability on the non-applicants jointly and severely.

02. As per claim petition, on 27.03.2014, Kumari Laxmi Dhruvanshi, aged about 15 years, student, died in the motor vehicular accident caused due to rash and negligent driving of vehicle (Truck) bearing registration No. RJ11GA/2757 by non-applicant No.1. The vehicle is owned by non-applicant No. 2- Indrapal Chandrakar and insured with Non-applicant No. 3- Megma H.D.I. General Insurance Company Ltd.

03. 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.

04. Learned counsel for the appellants/claimants submits that learned Tribunal has committed error in not assessing the income of the deceased for the purpose of computation of compensation by ignoring the fact that at the time of accident, the deceased was a student and her future would be very bright by getting education and job etc., therefore it is prayed that the income of the deceased ought to have been considered as Rs. 3,000/- pm on notional basis. He also submits that learned Tribunal has also not considered the multiplier, looking to the age of the deceased i.e. 15 years the multiplier of 15 should be used. He further submits that no amount towards future prospect has been granted to the claimants and no amount towards loss of filial and other conventional heads has been granted.

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

07. As regards income of the deceased, the learned Tribunal has not considered any income of the deceased, the deceased was the student and considering her bright future the income of the deceased can safely be taken as Rs. 3000/-pm as notional basis. At the time of accident the deceased was aged about 15 years therefore, 15 of multiplier would be applicable in this case. Further, 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, 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.3,000/- per month.	Rs. 3000x12= 36,000/- per annum
02.	40% of (1) above to be added towards future prospects.	Rs. 36,000+14400= Rs. =50400/-
03.	After 1/2 deduction towards personal and living expenses of the deceased	Rs. 25,200/-
04.	Multiplier of 15 to be applied	Rs. 3,78,000/-
05.	Towards loss of estate and funeral expenses	Rs. 30,000/-
06	Towards filial consortium	Rs. 20,000+ 20,000= Rs. 40,000/-
07	Total compensation	Rs. 4,48,000/-

Since the Tribunal has already awarded Rs.1,00000/-, after deducting the same from the above amount, the claimants are held entitled for additional compensation of Rs.3,48,000/- with interest @ 6% per annum from the date of application till realization. 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

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