

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**REVP No. 44 of 2019**

- Branch Manager, The Oriental Insurance Company Ltd., Branch Office Rama Trade Center, Old Bus Stand Bilaspur, In Front Of Rajeev Plaza, Thana Civil Lines, District- Bilaspur, Chhattisgarh.

----Applicant**Versus**

1. Ratan Das S/o Late Mohit Das Aged About 33 Years
2. Smt. Laxmin Manikpuri W/o Ratan Das Aged About 28 Years
3. Ku. Sanajana D/o Ratan Das Aged About 8 Years
4. Sanju Das S/o Ratan Das Aged About 6 Years

Respondent nos. 3 & 4 is Minor Through His Natural Guardian Father Ratan Das,

All are R/o Village Mahmand, Thana Torwa, Tahsil And District- Bilaspur, Chhattisgarh.

5. Manglu Kaiwart S/o Ramdayal Kaiwart Aged About 45 Years R/o Tarbahar, Thana Tarbahar, Tahsil And District- Bilaspur, Chhattisgarh.
6. Deepnarayan Tiwari S/o Bhagwat Prasad Aged About 50 Years R/o Shankar Nagar, Ward No. 37 In Front Of Gudkhu Factory, Bilaspur, District- Bilaspur, Chhattisgrh.

---- Respondents

For Applicant

Shri T.K. Tiwari, Advocate.

For Respondent Nos. 1 to 4

Shri A.L. Singroul, Advocate.

Hon'ble Shri Justice Gautam Chourdiya**Judgment on Board****04/04/2019**

1. Heard on I.A. No.1, application for condonation of delay of 49 days in filing the Review Petition.
2. For the reasons mentioned in the application which is duly supported

by affidavit, the same is allowed and delay in filing the Review Petition is condoned.

- 3. Also heard on admission.
- 4. The petition being arguable on merits is admitted for hearing.
- 5. By way of this review petition, the applicant/Insurance Company has sought modification in the judgment dated 15.11.2018 passed in MAC No.1480/2018 to the extent that grant of 50% towards future prospect may be reduced to 40% as admittedly the deceased was 11 years of age at the time of accident and there being no evidence regarding his income, his income was considered on notional basis and as such he has to be treated as self-employed.

Reliance has been placed on the decision of Hon'ble Supreme Court in the matter of **National Insurance Co. Ltd. Vs. Pranay Sethi, (2017) 16 SCC 680.**

- 6. From perusal of the judgment dated 15.11.2018 passed in MAC No.1480/2018, the error pointed out by the applicant/Insurance Company deserves to be rectified and 50% grant of future prospect to the claimants is hereby reduced to 40%. Thus, the compensation payable to the claimants is being reassessed as under:-

Sl. No.	Heads	Calculation (in rupees)
1.	Income of the deceased	Rs.30,000/- per annum
2.	40% of (i) above to be added towards future prospects.	Rs.12,000/- Rs.30,000 + Rs.12,000= Rs.42,000/-
3.	Multiplier of 15 to be applied	Rs.42,000 x 15 =

		Rs.6,30,000/-
4.	Towards mental agony, love and affection, loss of estate & funeral expenses (as awarded by the Tribunal)	Rs.10,000/- + Rs.10,000/- + Rs.15,000/- + Rs.15,000/- = Rs.50,000/-
5.	Towards Filial Consortium	Rs.50,000/-
	Total compensation	Rs.7,30,000/-

Since, the Tribunal has already awarded a sum of Rs.5,00,000/- after deducting the same from the amount as calculated above, the claimants are held entitled for an additional compensation of Rs.2,30,000/-. This additional amount shall carry interest at the rate of 6% per annum from the date of application till its realization. However, rest of the conditions of the award shall remain intact.

7. In the result, the review petition is allowed with modification in the judgment dated 15.11.2018 passed in MAC No.1480/18 to the above extent.

Sd/-
Gautam Chourdiya
Judge

Akhilesh