

HIGH COURT OF CHHATTISGARH, BILASPUR

MAC No. 596 of 2019

1. Rahim Bibi W/o Late Shri Asgar Ansari Aged About 29 Years
2. Jaiman Bibi W/o Sarfuddin Ansari Aged About 54 Years
3. Rizwan Ansari S/o Late Asgar Ansari Aged About 8 Years
4. Husn Ansari @ Husna Aara D/o Late Asgar Ansari Aged About 4 Years
5. Meraj Ansari S/o Late Asgar Ansari Aged About 9 months

Appellants No.3, 4 & 5 are minor through natural guardian mother Smt. Rahim Bibi, wife of late Asgar Ansari, aged about 29 years, all are resident of village Pachpadwa, Post Soh, PS Gadwa, District Gadwa (Jharkhand), at present resident of Hardi Bazar, Tahsil Katghora, District Korba (CG)

---- Appellants/claimants

Versus

1. Akash Kumar Patel S/o Shri Chhotelal Patel Aged About 36 Years R/o Village Nakbel, Tahsil Churhat, District Sindhi (Madhya Pradesh) Through Indramani Mineral India Private Limited Tower C-1, First Floor, Aishwarya Chamber, Telibandha, G.E. Road, Raipur Chhattisgarh.
2. Indramani Mineral India Private Limited Tower C-1 First Floor, Aishwarya Chamber, Telibandha, G.E. Road, Raipur Chhattisgarh.
3. The Oriental Insurance Company Ltd. Through Division Manager, The Oriental Insurance Company Limited, Division Office Geetanjali Bhawan, Main Road Korba, District - Korba Chhattisgarh.

---- Respondents

For Appellants	:	Smt. Uma Sahi, Advocate.
For Respondents	:	None.

Hon'ble Shri Gautam Chourdiya, J

Judgment On Board

27/03/2019

Heard on admission.

02. This appeal is by the claimants under Section 173 of the Motor Vehicles Act, 1988 against the award dated 11.12.2018 passed by Additional Tribunal to Additional Motor Accident Claims Tribunal, Katghora, Distt. Korba (CG) in Claim Case No.16/2016 awarding total compensation of Rs.13,60,484/- with interest @ 7% per annum from the date of application till realization, fastening liability on non-applicant No.3/insurance company.

03. As per claim petition, on 21.12.2015 at around 5 am while Asgar Ansari, aged 30 years, earning Rs.12,000/- per month as a driver, was going to attend the call of nature towards a field, non-applicant No.1 Akash Kumar Patel by driving vehicle bearing No. CG 04 HW 2616 in a rash and negligent manner dashed Asgar Ansari, as a result of which Asgar Ansari suffered grievous injuries and died on the spot itself. The offending vehicle was owned by non-applicant No.2 and insured with non-applicant No.3.

04. On claim petition being filed by the claimants, wife, mother and children 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.

05. Learned counsel for the appellants/claimants submits that the Tribunal has not properly assessed the income of the deceased and the amount awarded under the conventional heads is also on the lower side. The interest on the compensation should have been awarded @ 18% per annum but the Tribunal awarded only 7%. Therefore, the amount of compensation is required to be enhanced suitably.

06. Heard learned counsel for the appellant and perused the impugned award.

07. As regards income of the deceased, though the claimants have pleaded that the deceased was earning Rs.12,000/- per month as a driver 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 has been considered as Rs.6,302/- per month of skilled labour on notional basis by the Tribunal. The Tribunal further considering the age of the deceased as 32 years on the basis of documents available on record, the dependency, the nature of his job, keeping in view the decisions of the Hon'ble Supreme Court in ***Smt. Sarla Verma and others VS. Delhi Transport Corporation and another, (2009) 6 SCC 121***, applied multiplier of 16, deducted 1/4th towards personal and living expenses of the deceased and also awarded 40% towards future prospects. The Tribunal further awarded Rs.15,000/- for funeral expenses, Rs.20,000/- towards love and affection and mental agony; Rs.40,000/- towards loss of consortium and Rs.15,000/- towards loss of estate. Considering the facts and circumstances of the case, the nature and quality of evidence adduced by the claimants as reflected from the impugned judgment and not disputed by the appellants/claimants' counsel, the amount of Rs.13,60,484/- awarded by the Tribunal as compensation with interest @ 7% per annum from the date of application till realization, cannot be said to be inadequate or on the lower side. The said assessment appears to be just and proper, in conformity with the decisions of the Hon'ble Supreme Court in the matters of *Sarla Verma (supra)*, ***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***. Therefore, there is no need to interfere with the award impugned.

08. Resultantly, the appeal being without any substance is liable to be dismissed at the admission stage itself and is, accordingly, dismissed.

Sd/

(Gautam Chourdiya)

Judge