

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR****MAC No. 945 of 2014**

1. Mohan S/o Puni Ram Yadav Aged About 45 Years
2. Gayatri Bai W/o Mohan Yadav Aged About 38 Years

Both are R/o Village Nagjhar, P.S. And Tahsil Malkharoda, Civil and Revenue District Janjgir- Champa C.G.

**---Appellants/Claimants****Versus**

1. Rahimuddin S/o Jalaluddin Aged About 26 Years R/o Didar Kus, P.S. Sonai, Distt. Kachhar Asam, At Present Astha Infra Project Pvt. Ltd., Athena Power Plant, Singhitarai, District Janjgir-Champa C.G.
2. Astha Infra Project Pvt. Ltd. Athena Power Plant, N.A. 11, No. 60/17, W.No. 04, Jawahar Colony, Hamal Para, Kharsia, District Raigarh C.G.
3. Reliance General Insurance Company Branch Manager, Branch Office, Reliance General Insurance Company Ltd + D. National Corporate Park, Opposite Maruti Business Park, Shop No. 516, 5th Floor, G.E. Road, Raipur, District Raipur C.G.

**---- Respondents**


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|-----------------|---------------------------------------------------------|
| For Appellants  | Shri Akhtar Hussain and Shri Santosh Jaiswal, Advocate. |
| For Respondents | None.                                                   |

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**MAC No. 946 of 2014**

1. Teras Ram S/o Dukalu Yadav Aged About 45 Years
2. Khem Bai W/o Teras Ram Aged About 38 Years

Both are R/o Nagjhar, P.S. And Tahsil Malkharoda, Distt. Janjgir-Champa C.G.

**---- Appellants****Versus**

1. Rahimuddin S/o Jalaluddin Aged About 26 Years R/o Didar Kus, P.S. Sonai, Distt. Kachhar Asam, At Present Astha Infra Project Pvt. Ltd., Athena Power Plant, Singhitarai, District Janjgir-Champa C.G.

2. Astha Infra Project Pvt. Ltd. Athena Power Plant, N.A. 11, No. 60/17, W.No. 04, Jawahar Colony, Hamal Para, Kharsia, District Raigarh C.G.
3. Reliance General Insurance Company Branch Manager, Branch Office, Reliance General Insurance Company Ltd + D. National Corporate Park, Opposite Maruti Business Park, Shop No. 516, 5th Floor, G.E. Road, Raipur, District Raipur C.G.

---- Respondents

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|-----------------|---------------------------------------------------------|
| For Appellants  | Shri Akhtar Hussain and Shri Santosh Jaiswal, Advocate. |
| For Respondents | None.                                                   |

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**Honble Shri Justice Gautam Chourdiya**

**Judgment On Board**

**11/03/2019**

1. As both these appeals arise out of the common award dated 25.08.2014 passed by the 2<sup>nd</sup> Additional Motor Accident Claims Tribunal, Sakti, District Janjgir-Champa, C.G. in claim cases no. 6/14 and 7/14, they are being disposed of by this common judgment.
2. As per avements in the claim petition on 19.12.2013 while Umesh and Bhusan were riding on motorcycle, non-applicant no.1 Rahimuddin by driving Hyva Truck bearing no. CG13-L-2078, owned by non-applicant no.2 and insured with non-applicant no.3, in a rash and negligent manner dashed the said motorcycle, as a result of which Umesh and Bhusan suffered grievous injuries and succumbed to the same.
3. On claim petition under Section 166 of the Motor Vehicle Act (which was registered as claim case no.6/2014) being filed by the parents of deceased Umesh, 18 years of age and earning Rs.10,000/- per month as a Labour, the Tribunal considering the evidence led by the parties awarded total compensation of Rs.3,44,000/- with the interest @ 7

percent per annum from the date of award till realization. Likewise, on claim petition (which was registered as claim case no.7/2014) being filed by the parents of deceased Bhusan, aged 20 years and earning Rs.10,000/- per month as a Labour, the Tribunal awarded a total sum of Rs.3,44,000/- with interest @ 7 percent per annum from the date of award till realization, the Tribunal fastened the liability on non-applicant no.3 jointly and severally along with non-applicant nos. 1 & 2 Driver and Owner of satisfying the said award.

4. Learned counsel for the appellants/claimants submits that the Tribunal was not justified in assessing the income of the deceased as Rs.36,000/- per annum whereas even if the minimum wages at the relevant time is considered, their per month income can be taken as Rs.5,000/-. He also submits that the Tribunal has not awarded any amount towards future prospect and considering the age of the deceased i.e. 18 years, 40% should have been granted under this head. It is further submitted that the Tribunal has awarded a meager sum towards funeral expenses, loss of estate and pain and suffering. Lastly, it is submitted that the Tribunal was not justified in awarding interest from the date of award and it should have been from the date of filing of the claim petitions. 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.***

5. Learned counsel appearing on behalf of non-applicant no.3/Insurance Company pleads no instruction from the Insurance Company. Hence, the Insurance Company is being proceeded *ex-parte*.
6. Heard learned counsel for the appellants and perused the material available on record.
7. Though, the claimants have pleaded that the deceased were earning Rs.10,000/- per month as a Labour, however, no evidence in support thereof has been adduced by them. In these circumstances, their monthly income can safely taken as Rs.5,000/- per month as per minimum wages prevalent at the relevant time. Further, considering the age of the deceased persons i.e. 18-20 years, the claimants are also entitled for 40% addition to their annual income towards future prospect. Thus, 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:

**MAC No.946/2014 (Claim Case No.7/14)**

| S.I. No. | Heads                                                  | Calculation (in rupees)                                   |
|----------|--------------------------------------------------------|-----------------------------------------------------------|
| 1.       | Income of the deceased @ Rs.5,000/- per month.         | Rs.60,000/- per annum                                     |
| 2.       | 40% of (i) above to be added towards future prospects. | Rs.24,000/-<br><br>Rs.60,000 + Rs.24,000 =<br>Rs.84,000/- |
| 3.       | ½ deduction towards personal and living                | Rs.42,000/-                                               |

|    |                                                                         |               |
|----|-------------------------------------------------------------------------|---------------|
|    | expenses of the deceased                                                |               |
| 4. | Multiplier of 18 to be applied                                          | Rs.7,56,000/- |
| 5. | Towards loss of estate and funeral expenses                             | Rs.30,000/-   |
| 6. | Towards loss of pain and suffering as well as loss of filial consortium | Rs.5,000/-    |
|    | Total Compensation                                                      | Rs.7,91,000/- |

Since the Tribunal has already awarded Rs.3,44,000/-, after deducting the same from the above amount, the claimants are held entitled for additional compensation of Rs.4,47,000/-. This additional amount of compensation as also the amount awarded by the Tribunal shall carry interest @ 7% per annum from the date of claim petition till realization. However, rest of the conditions of the impugned award shall remain intact.

**MAC No. 945/2014 (Claim Case No.6/14)**

| S.I. No. | Heads                                                            | Calculation (in rupees)                                |
|----------|------------------------------------------------------------------|--------------------------------------------------------|
| 1.       | Income of the deceased @ Rs.5,000/- per month.                   | Rs.60,000/- per annum                                  |
| 2.       | 40% of (i) above to be added towards future prospects.           | Rs.24,000/-<br><br>Rs.60,000 + Rs.24,000 = Rs.84,000/- |
| 3.       | ½ deduction towards personal and living expenses of the deceased | Rs.42,000/-                                            |
| 4.       | Multiplier of 18 to be applied                                   | Rs.7,56,000/-                                          |
| 5.       | Towards loss of estate and funeral expenses                      | Rs.30,000/-                                            |
| 6.       | Towards loss of pain and suffering as                            | Rs.5,000/-                                             |

|  |                                   |               |
|--|-----------------------------------|---------------|
|  | well as loss of filial consortium |               |
|  | Total Compensation                | Rs.7,91,000/- |

Since the Tribunal has already awarded Rs.3,44,000/-, after deducting the same from the above amount, the claimants are held entitled for additional compensation of Rs.4,47,000/-. This additional amount of compensation as also the amount awarded by the Tribunal shall carry interest @ 7% per annum from the date of claim petition till realization. However, rest of the conditions of the impugned award shall remain intact.

08. In the result, both the appeals are allowed in part with modification in the impugned award to the above extent.

Sd/-  
**(Gautam Chourdiya)**  
**Judge**