

AFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 453 of 2014**

1. Fulbasia W/o Late Jugeshwar Aged About 23 Years
2. Beby D/o Late Jugeshwar Aged About 10 Years
3. Tapeswar S/o Late Jugeshwar Aged About 3 Years
4. Sahodary W/o Heerasai Aged About 50 Years R/o R
5. Heerasai S/o Late Fulchand Aged About 55 Years

Appellants Nos. 2 to 3 are minors, through their natural guardian-
Mother Fulbasia All are R/o Rajkishore Nagar, P.S. Sarkanda, Bilaspur,
Distt. Bilaspur C.G.

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

1. Shankar Prasad Kashyap S/o Nahu Kashyap Aged About 45 Years
R/o Adhina, Salka, P.S. Bhatgaon, Distt. Surajpur C.G.
2. M/s Durga Motor Service Prop. Vijay Kumar Gupta, Old Bus Stand,
Ambikapur, Distt. Surguja C.G.
3. United India Insurance Company Ltd. Divisional Manager, Rajendra
Nagar Chowk, Bilaspur C.G.

---- Respondents

For Appellants
For Respondent no.3

Smt. Neeta Choubey, Advocate.
Smt. Chitra Shrivastava, Advocate.

Hon'ble Shri Justice Gautam Chourdiya**Order On Board**

27/02/2019

1. This appeal is by the claimants against the award dated
20.03.2014 passed by 3rd Additional Motor Accident Claims
Tribunal, Bilaspur, C.G. in Claim Case No.18/13 awarding total
compensation of Rs.4,72,000/- with interest @ 6 per annum from

the date of application till realization, fastening liability on the Insurance Company.

2. As per claim petition, on 11.10.2012 deceased Jugshwar, aged about 24 years, earning Rs.9,000/- per month working as Labour, died in the motor vehicular accident caused due to rash and negligent driving of bus bearing registration CG15-Ab-0112 by non-applicant No.1, owned by non-applicant no.2 and insured with non-applicant no.3.
3. 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.
4. Learned counsel for the appellants/claimants submits as under:
 - (i) that income of the deceased has wrongly been considered by the Tribunal as Rs.3,000/- whereas it should have been Rs.9,000/-
 - (ii) that 1/3rd deduction towards personal and living is also against the law and it should have been 1/4.
 - (iii) that no amount towards future prospect has been granted to the claimants.
 - (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, 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, though the claimants have pleaded that the deceased was earning Rs.9,000/- per month working as Labour but no documentary or oral 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.4,500/- per month as per minimum wages at the relevant time. Further, considering the age of the deceased i.e. 24 years, 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.4,500/- per month.	Rs.4,500 x 12 = 54,000/- per annum
02.	40% to be added towards future	Rs.21,600/-

	prospects.	Rs.54,000 + Rs.21,600 = Rs.75,600/-
03.	1/4 deduction towards personal and living expenses of the deceased	Rs.18,900/- Rs.75,600 – Rs.18,900 = Rs.56,700/-
04.	Multiplier of 18 to be applied	Rs.56,700 x 18 = Rs.10,20,600/-
05.	Towards loss of estate, loss of spousal consortium and funeral expenses	Rs.70,000/-
06.	Towards loss of parental consortium	Rs.20,000/- (as awarded by the Tribunal)
	Total Compensation	Rs.11,10,600/-

Since the Tribunal has already awarded Rs.4,72,000/-, after deducting the same from the above amount, the claimants are held entitled for additional compensation of Rs.6,38,600/- 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

Akhilesh