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HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 172 of 2014**

1. Poliseti Nageshwar Rao S/o Polesetti Ram Kotti Aged About 49 Years
2. Smt. Poliseti Haimabati W/o Poliseti Nageshwar Rao Aged About 44 Years

----Appellants**Versus**

1. A. Sardar Malkit Singh S/o Sardar Kartar Singh R/o Veersavrkar Nagar, Tatibandh, Raipur, Distt. Raipur C.G. (Owner of Vehicle Truck Bearing No. M.I.T. 8756)

B. Preetam Singh S/o Sardar Kartar Singh R/o Heerapur Colony, Tatibandh, Raipur, Distt. Raipur C.G. (Owner of Vehicle Truck Bearing No. M.I.T. 8756)
2. Gurubachan Singh S/o Sohan Singh R/o Heerapur Colony, Tatibandh, Raipur, Distt. Raipur M.P. Now C.G. (Driver of Vehicle Truck Bearing No. M.I.T. 8756)
3. Oriental Insurance Company Ltd. Divisional Office, Madina Building, Jail Road, Raipur C.G., Thru- Divisional Manager, Raipur M.P., Now C.G.

---- Respondents

For Appellants	:	Shri Suresh Tandan, Advocate.
For Respondent No.3	:	Shri H.S. Patel, Advocate.

Hon'ble Shri Gautam Chourdiya, J**Judgment On Board****12.03.2019**

This appeal is by the claimants against the award dated 25.09.2013 passed by the Chief Motor Accident Claims Tribunal, Raipur, District Raipur, C.G. in Claim Case No.20/1997 awarding total compensation of Rs.4,54,000/- with interest @ 6 per annum from 07.2.2012, fastening liability on the non-applicants jointly and severely.

02. As per claim petition, on 24th March, 1997 deceased P. Suresh Babu, aged about 23 years, earning Rs.2,790/- per month as E.D.P. Programmer, died in the motor vehicular accident caused due to rash and negligent driving of Truck bearing no. MIT 8756 by non-applicant No.2. At the time of accident, offending vehicle was owned by non-applicant no.1 and insured with non-applicant no.3.

03. On claim petition being filed by the claimants i.e. Parents of deceased under Section 166 of the Motor Vehicles Act to the tune of Rs.9,06,800/-, the Tribunal considering the evidence led by both the parties passed an award as mentioned above in para 1 of this judgment.

04. Learned counsel for the appellants/claimants submits as under:

(i) that income of the deceased has wrongly been considered by the Tribunal as Rs.2,325/- per month whereas it should have been Rs.2,790/- per month including all allowances as per Ex.A-2 i.e. Pay Certificate.

(ii) that 1/2 deduction towards personal and living is also against the law and it should have been 1/3.

(iii) that the amount awarded under the conventional heads also being on the lower side deserves to be enhanced suitably. No amount towards loss of filial and other consortium has been granted.

(iv) that Tribunal has awarded only 6% interest whereas it should have been 12% from the date of application i.e. 27.07.1998.

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. So far as income of the deceased is concerned, as per Ex.A-2 i.e. pay certificate of the deceased, the income of the deceased comes to Rs.2,790/- per month. However, the Tribunal after deducting the allowances i.e. dearness allowance, house rent allowance, conveyance allowance, food subsidy, medical allowance and LTA assessed the income of the deceased as Rs.2,325/- per month whereas the said allowances are not deductible and the Tribunal should have considered the income of the deceased as Rs.2,790/-. Thus, the annual income of the deceased comes to Rs.2,790/- per month. Further, considering the age of the deceased i.e. 26 years, the dependency i.e. 2, 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)
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01.	Income of the deceased @ Rs.2,790/- per month.	Rs.33,480/- per annum
02.	50% of (i) above to be added towards future prospects.	Rs.16,740/- Rs.33,480 + Rs.16,740 = Rs.50,220/-
03.	1/2 deduction towards personal and living expenses of the deceased	Rs.25,110/- Rs.50,220/- – Rs.25,110/- = Rs.25,110/-
04.	Multiplier of 17 to be applied	Rs.4,26,870/-
05.	Towards loss of estate and funeral expenses	Rs.30,000/-
06.	Towards loss of filial consortium @ Rs.50,000/- each to claimant nos. 1 & 2	Rs.1,00,000/-
	Total Compensation	Rs.5,56,870/-

Since the Tribunal has already awarded Rs.4,54,000/-, after deducting the same from the above amount, the claimants are held entitled for additional compensation of Rs.1,02,870/-. However, this additional amount shall carry interest as awarded by the Tribunal. 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