

HIGH COURT OF CHHATTISGARH, BILASPUR

MAC No. 743 of 2019

1. Smt. Parwati Sonkar S/o Late Lilman Sonkar Aged About 48 Years
2. Kamlesh Sonkar S/o Late Lilman Sonkar Aged About 28 Years
istrict Dhamtari Chhattisgarh., District : Dhamtari, Chhattisgarh
3. Mamlesh Sonkar S/o Late Lilman Sonkar Aged About 26 Years
4. Chitrasen Sonkar S/o Late Lilman Sonkar Aged About 24 Years
5. Lokesh Sonkar S/o Late Lilman Sonkar Aged About 22 Years
6. Jitendra Sonkar S/o Late Lilman Sonkar Aged About 22 Years
7. Nemichand Sonkar S/o Late Lilman Sonkar Aged About 18 Years
8. Mehattar Sonkar S/o Nohar Ram Sonkar Aged About 75 Years
9. Smt. Shanti Bai Sonkar W/o Mehatar Sonkar Aged About 70 Years

All R/o Village Gudguda, Tahsil Kurud, District Dhamtari
Chhattisgarh

---- Appellants/claimants

Versus

1. Komal Singh Sahu S/o Shri Bagas Ram Sahu Aged About 46 Years R/o Dharam Nagar, Behind Of Axal Tower Near Pachpedi Naka, Raipur, District Raipur Chhattisgarh. (Driver And Owner Of Offending Vehicle Alto Car Bearing Registration No. C.G. -04-HB-7765)
2. Divisional Branch Manager Through Bajaj Alliance General Insurance Company Limited, Shiv Mohan Bhawan, Pandri, Raipur, District Raipur Chhattisgarh. (Insurer Of Offending Vehicle Bus Bearing Registration No. CG-04-HB-7765)

--- Respondents

For Appellants	:	Shri SP Sahu, Advocate.
For Respondents	:	None.

Hon'ble Shri Gautam Chourdiya, J

Judgment On Board

07/05/2019

Heard on admission.

02. This appeal is by the claimants under Section 173 of the Motor Vehicles Act, 1988 against the award dated 14.12.2018 passed by 4th Additional Motor Accident Claims Tribunal, Raipur (CG) in Claim Case No.516/2015 awarding total compensation of Rs.7,92,536/- with interest @ 7.5% per annum from the date of application till realization, fastening liability on non-applicant No.2/insurance company.

03. As per claim petition, on 9.4.2015 Leelman, aged about 50 years, earning Rs.21,000/- p.m. by doing agriculture work and as a vegetable vendor was the pillion rider on the motorcycle (TVS Sports Motorcycle No. CG 04 KE 4873) of his relative Bedram. However, on the way, non-applicant No.1 Komal Singh Sahu by driving vehicle Auto Car bearing No. CG 04 HB 7765, owned by him and insured with non-applicant No.2, in a rash and negligent manner dashed the said motorcycle. As a result of this accident, Leelman suffered grievous injuries and succumbed to the same during treatment.

04. On claim petition being filed by the claimants, wife, children and parents 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 whereas the deceased was earning Rs.21,000/- from agriculture and sale of vegetables. No other ground has been raised by the counsel for assailing the award of the Tribunal.

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.21,000/- per month from agriculture and by sale of vegetables 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.6,000/- per month on notional basis by the Tribunal. Looking to the minimum wages prevalent at the time of accident i.e. Rs.5,787/-, the assessment of income of the deceased by the Tribunal cannot be said to be on the lower side. The Tribunal further considering the age of the deceased as 51 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***, and ***National Insurance Co. Ltd. Vs. Pranay Sethi, (2017) 16 SCC 680***, applied multiplier of 11, deducted 1/5th towards personal and living expenses of the deceased and also awarded 10% towards future prospects. The Tribunal further awarded Rs.15,000/- for funeral expenses, Rs.40,000/- towards loss of spousal 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 said assessment appears to be just and proper, warranting no interference by this Court.

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