

AFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 752 of 2014**

1. Bhaklaram Jangade S/o Late Jhalaram Jangade aged about 50 Years,
2. Smt. Jankibai Jangade W/o Bhaklaram Jangade aged about 48 Years,

Both R/o Village Amavash, Post Office Tumgaon, Police Station Tumgaon, District Mahasamund (C.G.)

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

1. Digamber Uike S/o Sukhram Uike, aged about 25 Years R/o Mangli, Post Office Khapa & Police Station Khapa, District Bhandara (Maharashtra).
(Driver of Vehicle Swaraj Majda bearing registration No. M.H./31/CQ/8794)
2. Nilesh Agrawal S/o Ramesh Agrawal R/o Plot No. 580, Tegdi Road, Sadar Near Muslim Library, Post Office- Nagpur, Police Station Nagpur, District Nagpur (Maharashtra).
(Registered owner of Vehicle Swaraj Majda bearing registration No. M.H./31/CQ/8794)
3. The Branch Manager, The S.B.I. General Insurance Company Limited, Through the Branch Manager, Branch Office, Pujari Complex, Pachpedi Naka, Raipur, Post Office Raipur, Police Station Tikrapara, Raipur, Tahsil & District Raipur (C.G.)
(Insurer of Vehicle Swaraj Majda bearing registration No. M.H./31/CQ/8794)

---- Respondents

For Appellants	:	Shri Shivendu Pandya, Advocate.
For Respondent No. 3	:	Shri Ghanshyam Patel, Advocate.

Hon'ble Shri Gautam Chourdiya, J**Judgment On Board****06.03.2019**

This appeal is by the claimants against the award dated 24.03.2014, passed by Motor Accident Claims Tribunal, Mahasamund (C.G.) in Claim Case No. 118/2013 awarding total compensation of 4,13,000/- with interest @ 6% per annum from the date of application

till realization, fastening liability on the non-applicants jointly and severally.

02. As per claim petition, on 12.06.2013, around 08:30 PM, deceased - Firoz, aged about 23 years, earning Rs. 250/- per day (i.e Rs. 7,500/- per month) as Cutter at Stone Polish Factory died in the motor vehicle accident due to rash and negligent driving of Swaraj Mazda (offending vehicle) bearing registration No. M.H./31/ CQ/8794 by non-applicant No.1- Digamber Uike. The offending vehicle is owned by non-applicant No. 2 & insured with non-applicant No. 3.

03. On claim petition being filed by the claimants/parents of the deceased- Firoz under Section 166 of the Motor Vehicles Act, the Tribunal considering the evidence led by both the parties passed an award as mentioned above.

04. Learned counsel for the appellants/claimants submits that though he has raised various grounds in this memo of appeal, however, he is not pressing on those grounds and is assailing the award on the following grounds only :-

- i. that income of the deceased has wrongly been considered by the Tribunal as Rs. 4,000/- per month; whereas it should have been Rs. 250/- per day i.e Rs. 7500/- per month.
- ii. that 1/2 deduction towards personal and living expenses of the deceased is also against the law and it should have been 1/3rd.
- iii. that no amount towards future prospect has been granted to the claimants.
- iv. that multiplier of 12 has wrongly been applied and considering the age of the deceased, it should have been 18.
- v. that the amount awarded under the conventional heads and the amount awarded towards loss of filial and other consortium 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 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***

05. On the other hand, learned counsel for the respondent No. 3/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.

05. Heard learned counsel for the parties and perused the material available on record.

06. As regards income of the deceased, though the claimants have pleaded that the deceased was earning Rs. 7500/- per month as Cutter in Stone Polish Factory 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 is considered as Rs. 5000/- per month as per minimum wages prevailing at the relevant time. As per pm report (EXP/6) and inquest report (Ex. P/5) this fact is proved that at the time of accident, the age of the deceased was 23 years, therefore, as per Apex Court Judgment in the matter of Sarla Verma (Smt.) the multiplier of 18 would be applicable instead of 12. In the light of Supreme Court judgment Magma General Insurance Co. Ltd. Vs. Nanuram @ Chuhru Ram & Ors. (supra), the amount awarded towards love & affection to the parents of the deceased as Rs. 1,00,000/- by the Tribunal is kept intact. Further, 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 and 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. 5,000 per month).	Rs. 5000 x 12= Rs. 60,000/- per annum
02.	40% of (1) above to be added towards future prospects.	Rs. 600,000+ 24,000= Rs. 84,000/-
03.	After 1/2 deduction towards personal and living expenses of the deceased	Rs. 84,000 – 42,000 = Rs. 42,000/-
04.	Multiplier of 18 to be applied	Rs. 42000 x 18 = Rs. 7,56,000/-
05.	Towards loss of funeral expenses & loss of estate	Rs. 30,000/-
06.	Toward filial consortium	Rs. 1,00,000/- (as awarded by Tribunal)
07.	Total Compensation	Rs. 8,86,000/-

Since the Tribunal has already awarded Rs. 4,13,000/-, after deducting the same from the above amount, the claimants are held entitled for additional compensation of Rs. 4,73,000/-with interest @ 6% per annum from the date of application till realization. However, rest of the conditions of the impugned award shall remain intact.

07. In the result, the appeal is allowed in part with modification in the impugned award to the above extent.

Sd/-

**(Gautam Chourdiya)
Judge**