

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 446 of 2014**

1. Smt. Indira Chelak W/o Dhelu Chelak Aged About 38 Years
2. Dhelu Chelak S/o Judawan Chelak Aged About 44 Years
Both R/o Village Dhansuli, Thana- Mandir Hasaud, Civil and Revenue Distt. Raipur C.G.

---- Appellants/claimants**Versus**

1. Shanbhu Lal S/o Bhola Aged About 30 Years, occupation driver, R/o Kalri, Chirmiri, Sameti Dafai Chowki Korla, Distt. Korla C.G. (driver of vehicle truck bearing registration No. CG 04 JC 2148)
2. Surendra Kumar Mittal S/o Govind Prasad Mittal R/o Mahamaya Road Lines, Shop No. 02, Satkar Complex, Bhanpuri, Raipur, Distt. Raipur C.G. (owner of vehicle truck bearing registration No. CG 04 JC 2148)
3. Shriram General Insurance Co. Ltd. Thru- Branch Manager, Plat No. 48, Jon -2, M.P. Nagar, Bhopal M.P. (Insurer of vehicle truck bearing registration No. CG 04 JC 2148)

---- Respondents

For Appellants	:	Shri SP Sahu, Advocate.
For Respondent Nos. 1 & 2	:	None.
For Respondent No.3	:	Shri Deepak Gupta, Advocate.

Hon'ble Shri Gautam Chourdiya, J**Judgment On Board****07/03/2019**

This appeal is by the claimants under Section 173 of the Motor Vehicles Act, 1988 against the award 2.12.2013 passed by Chief Motor Accident Claims Tribunal, Raipur in Claim Case No.257/2011 awarding total compensation of Rs.4.31 lacs with interest @ 6% per annum from the date of application till realization, fastening liability on the non-applicant No.3/insurance company jointly and severally along with non-applicants No. 1 & 2/driver & owner.

02. As per claim petition, 10.8.2011 Ku. Kiran Chelak, aged about 21 years, earning Rs.5,000/- by taking tuitions, along with some other persons was travelling in Indica Car bearing No. CG 12-7222. However, non-applicant No.1 Shambhulal by driving vehicle bearing No. CG 04 JC 2148 in a rash and negligent manner dashed the said Indica car as a result of which Ku. Kiran Chelak and other travelling in

the car suffered grievous injuries. Ku. Kiran Chelak suffered grievous injuries and died during treatment in hospital. At the time of accident, the offending vehicle was owned by non-applicant No.2 and insured with non-applicant No.3.

03. On claim petition being filed by the claimants, 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.

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.3000/- per month whereas it should have been Rs.5,000/- which the deceased was earning by taking tuitions.

(ii) that multiplier of 17 has wrongly been applied by the Tribunal and it should have been 18 as the deceased was 21 years of age.

(iii) that no amount towards future prospect has been granted to the claimants.

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/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. No counter appeal has been filed by the respondents as submitted by learned counsel for the parties.

07. Heard learned counsel for the parties and perused the material

available on record.

08. As regards income of the deceased, though the claimants have pleaded that the deceased was earning Rs.5,000/- per month by taking tuitions 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.4,000/- per month as per minimum wages at the relevant time. Further, considering the age of the deceased i.e. 21 years, 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.4,000/- per month.	48,000/- per annum
02.	40% of (i) above to be added towards future prospects.	48,000 + 19,200 = 67,200/-
03.	50% deduction towards personal and living expenses of the deceased	33,600/-
04.	Multiplier of 18 to be applied	6,04,800/-
05.	Towards funeral expenses	25,000/- (as awarded by Tribunal)
06.	Towards loss of filial consortium	1,00,000/- (as awarded by Tribunal)
	Total :	7,29,800/-

Since the Tribunal has already awarded Rs.4.31 lacs, after deducting the same from the above amount, the claimants are held entitled for additional compensation of Rs.2,98,800/- with interest @ 6% per annum from the date of application till realization. However, rest of the conditions of the impugned award shall remain intact.

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

Sd/

(Gautam Chourdiya)

Judge

Khan