

AFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Miscellaneous Appeal (Civil) No. 1133 of 2012

1. Smt. Sarabjit Kaur Wd/o Late Gurvinder Sing, age 21 years
2. Ku. Naman Deep Kaur D/o Late Gurvinder Sing, Age 01 year
Both R/o: St. No. 63, Sec. 6, E-Market, Bhilai, Tahsil & District Durg (C.G.)
Appellant No.2 is minor hence impleaded through her mother Appellant No.1
Smt. Sarabjit Sing Wd/o Late Gurvinder Sing

---- Appellants/Claimants

Versus

1. Harvinder Sing S/o Harjinder Sing, R/o Qtr. No. 8/A, St.No. 38, Sec.7, Bhilai, Tahsil & District Durg (C.G.)
(Driver of vehicle No. CG-07/MA/7030)
2. The Manager, Saman International Pvt. Ltd. Office At: 23-A, Road Street, II floor, Room No. 202, Kolkata 700016
(Owner of vehicle No. CG-07/MA/7030)
3. Manager, Ifko-Tokyo General Insurance Co. Ltd. Office at: IIIrd Floor, 345-347, Lal Ganga Shopping Complex, G.E. Road, Raipur (C.G.)
(Insurer of vehicle No. CG-07/MA/7030)

---- Respondents/Non-applicants

For Appellants	:	Shri Amiya Kant Tiwari, Advocate
For Respondents No. 1 & 2	:	None
For Respondent No. 3	:	Shri Amrito Das, Advocate

Hon'ble Shri Justice Gautam Chourdiya, J

Judgment on Board

01.04.2019

This appeal is by the claimants, unfortunate wife and minor daughter of deceased- Gurvinder Sing, against the award dated 31.07.2012 passed by the Fourth Additional Motor Accident Claims Tribunal, Durg (C.G.) in Claim Case No. 150 of 2011 awarding total compensation of Rs.3,98,500/- with interest @ 6% per annum from the date of application till realization, fastening liability on the non-applicants jointly and severally.

2. As per claim petition, on 06.11.2010, deceased-Gurvinder Singh aged about

35 years, earning Rs.6,000/- per month as supervisory work, died in the motor vehicular accident caused due to rash and negligent driving of vehicle- Scorpio bearing registration No. CG-07/MA/7030 by non-applicant No.1, owned by non-applicant No.2 and was insured with non-applicant No.3.

3. On claim petition being filed by the claimants under Section 166 of the Motor Vehicles Act, 1988, 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.6,000/- per month.
- (ii) that no amount towards future prospect has been granted to the claimants.
- (iii) 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 decision of the Hon'ble Supreme Court in the matter of ***National Insurance Co. Ltd. Vs. Pranay Sethi, (2017) 16 SCC 680.***

5. On the other hand, learned counsel for the Insurance Company/non-applicant No.3 supports the impugned award and submits that the Tribunal considering all the relevant aspects of the matter has rightly awarded compensation which needs no interference by this Court.

6. As submitted by learned counsel for the parties, no counter appeal has been filed by the Respondents/non-applicants.

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

8. As regards income of the deceased, the claimants have pleaded that the deceased was earning Rs.6,000/- per month as supervisory work, but no documentary evidence in support thereof has been adduced. Therefore, in these circumstances, in absence of any proof regarding income, income of the deceased is considered as Rs.4,000/- as per minimum wages at the relevant time for

unskilled person. Further, considering the age i.e. 35 years, the dependency, the nature of his job and 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 *Pranay Sethi* (supra), the appellants/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	Rs.48,000/- per annum
02	40% of (1) above to be added towards future prospects	(Rs.48,000/- + Rs.19,200/-) Rs.67,200/-
03	1/3rd deduction towards personal and living expenses of the deceased	(Rs.67,200/- – Rs.22,400/-) Rs.44,800/-
04	Multiplier of 16 to be applied	Rs.44,800/- x 16 = Rs.7,16,800/-
05	Conventional heads: Loss of estate; loss of consortium and funeral expenses	Rs.70,000/-
	Total Compensation	Rs.7,86,800/-

Since the Tribunal has already awarded Rs.3,98,500/-, after deducting the same from the above amount, the Claimants/Appellants are held entitled for additional compensation of Rs.3,88,300/- with interest @ 6% per annum from the date of application till realization. However, rest of the conditions of the impugned award shall remain intact.

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

Sd/-
(Gautam Chourdiya)
Judge