

AFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 1134 of 2014**

1. Ramdayal S/o Butangi Netam Aged About 45 Years
2. Smt. Surjotin W/o Ramdayal Aged About 40 Years

Both are R/o Tangapani, Post- Birgudi, P.S. Sihawa, Tah. Nagri, Distt. Dhamtari C.G.

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

1. Jamaluddin Khabn S/o Rahimuddin Khan Aged About 40 Years R/o Abhanpur, P.S. Abhanpur, Distt. Raipur C.G.
2. Manoj Kumar Sharma S/o M.P. Sharma R/o N.P. Upadhyay, T.I. Police Stataion- Pachpedi Naka, Raipur, Tah. And Distt. Raipur C.G., Presently R/o Friends Residency Circle, Bilaspur, Tahsil and District Bilaspur C.G.
3. Bajaj Alliance General Insurance Company Ltd Through Branch Manager, Bajaj Alliance General Insurance Company Ltd., Shivmohan Bhavan, Vidhan Sabha Road, Pandri, Tahsil and District Raipur C.G.

---- Respondents

For Appellants	:	Shri Anil Gulati, Advocate.
For Respondent nos. 1 & 2	:	None.
For Respondent No.3	:	Shri Rohitashava Singh, Advocate.

Hon'ble Shri Justice Gautam Chourdiya**Judgment on Board**

18/03/2019

This appeal is by the claimants against the award dated 14.08.2014 passed by the Additional Motor Accident Claims Tribunal, Dhamtari, C.G. in Claim Case No.32/14 awarding total compensation of Rs.3,44,000/- 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 13.04.2013, deceased Raj Kumar Netam, aged about 23 years, earning Rs.9,000/- per month as Labour, died in the motor vehicular accident caused due to rash and negligent driving of Bore Well Drilling Truck bearing no.CG18-JC-0255 by non-applicant No.1/respondent no.1. At the time of accident, offending vehicle was owned by non-applicant no.2/respondent no.2 and insured with non-applicant no.3/respondent no.3.

03. On claim petition being filed by the claimants i.e. parents of deceased under Section 166 of the Motor Vehicles Act for compensation to the tune of Rs.35,00,000/-, the Tribunal considering the evidence led by both the parties passed an award as mentioned in para 1 of this judgment.

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

(i) that income of the deceased has wrongly been considered by the Tribunal as Rs.3,000/- per month whereas it should have been Rs.9,000/- looking to the job of the deceased.

(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. No amount towards loss of filial and other consortium has been granted.

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. No counter appeal has been filed by the respondents as submitted by 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.9,000/- per month as Labour 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.5,000/- per month as per minimum wages at the relevant time as unskilled labour. Further, considering that the deceased falls within the age group of 15-25 as has been ascertained by the Tribunal, the dependency, 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)
01.	Income of the deceased @ Rs.5,000/- per month.	Rs.60,000/- per annum
02.	40% of (i) above to be added towards future prospects.	Rs.24,000 + Rs.60,000 = Rs.84,000/-
03.	1/2 deduction towards personal and living expenses of the deceased	Rs.42,000/-
04.	Multiplier of 18 to be applied	Rs.7,56,000/-
05.	Towards loss of estate and funeral expenses	Rs.30,000/-
06.	Towards loss of filial consortium to claimants @ Rs.5,000/- each.	Rs.10,000/-
	Total Compensation	Rs.7,96,000/-

Since the Tribunal has already awarded Rs.3,44,000/-, after deducting the same from the above amount, the claimants are held entitled for additional compensation of Rs.4,52,000/- with interest @ 6% per annum from the date of application till realization. However, rest of the conditions of the impugned award shall remain intact.

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

Sd/-
(Gautam Chourdiya)
Judge

Akhilesh