

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 634 of 2019**

1. Ganga Bai wife of late Dev Singh, aged about 47 years,
2. Rajjan Singh son of late Dev Singh, aged about 28 years,

Both are resident of Village- Kaudiya, at present resident of Kirari, near Bajrang Bali Chowk, Tahsil- Masturi, District- Bilaspur (C.G.).

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

1. Shailesh Singh son of Devshankar Singh, resident of Main Road, Pali, Post- Pali, UP- Tahsil- Pali, District- Korba (C.G.).
2. S.M. Javed son of S.M. Jaleel, resident of House No. 166, Karimganj Gaya, District- Gaya (Bihar).
3. National Insurance Company Limited, Through Branch Manager, Korba, 13, Meenu Complex, Kosabadi, Korba (C.G.) PIN- 495677.

---- Respondents

For Appellants	:	Shri A. L. Singroul, Advocate.
For Respondents	:	None.

Hon'ble Shri Gautam Chourdiya, J**Judgment On Board****02/04/2019**

Heard on IA No. 01, application for condonation of delay of 50 days in filing the appeal.

02. For the reason mentioned in the application which is duly supported by the affidavit, the same is allowed and delay in filing the MAC is condoned.

03. Heard on admission.

04. This appeal is by the claimants under Section 173 of the Motor Vehicles Act, 1988 against the award dated 31.10.2018, passed by 8th Motor Accident Claims Tribunal, Bilaspur, Distt. Bilaspur (CG) in Claim Case No.39/2011 awarding total compensation of Rs.7,12,900/- with interest @ 6% per annum from the date of application till realization, fastening liability on non-applicant No.3/insurance company.

05. As per claim petition, on 01.04.2011 at around 7 am while Dev singh, aged 50 years, earning Rs.15,000/- per month by work of agricultural & running grocery shop safely crossing the road near village Mohtara-Bhodora canal Bridge, non-applicant No.2 S. M. Javed by driving vehicle bearing No. C.G.-04-JB/1346 in a rash and negligent manner dashed Dev singh, as a result of which Dev singh suffered grievous injuries and died on the spot. The offending vehicle was owned by non-applicant No.1 and insured with non-applicant No.3.

06. On claim petition being filed by the claimants/ wife & major son 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.

07. Learned counsel for the appellants/claimants submits that the Tribunal has not properly assessed the income of the deceased and the amount awarded under the conventional heads is also on the lower side. Therefore, the amount of compensation is required to be enhanced suitably.

08. Heard learned counsel for the appellant and perused the impugned award.

09. As regards income of the deceased, though the claimants have pleaded that the deceased was earning Rs.15,000/- per month by work of agricultural & running grocery shop 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 rightly been considered as Rs.4,830/- per month as per minimum wages at the relevant time. The Tribunal further considering the age of the deceased as 50 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** & **National Insurance Co. Ltd. Vs. Pranay Sethi, (2017) 16 SCC 680** applied multiplier of 13, deducted 1/3th towards personal and living expenses of the deceased and also awarded 25% towards future prospects. The Tribunal further awarded Rs.15,000/- for funeral expenses, Rs.15,000/- towards loss of estate and Rs.40,000/- towards loss of consortium. 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 amount of Rs.7,12,900/- awarded by the Tribunal as compensation with interest @ 6% per annum from the date of application till realization, cannot be said to be inadequate or on the lower side. The said assessment appears to be just and proper, in conformity with the decisions of the Hon'ble Supreme Court in the matters of **Sarla Verma** (supra), **National Insurance Co. Ltd. Vs. Pranay Sethi, (supra)**. Therefore, there is no need to interfere with the award impugned.

10. 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