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HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 729 of 2019**

1. Smt. Rukhmani Lahre wife of Late Shatruhan Lahre, aged about 28 years.
2. Shashil Lahre son of Late Shatruhan Lahre, aged about 15 years.
3. Ku. Shalini daughter of late Shatruhan Lahre, aged about 123 years.
4. Ku. Laxmin daughter of Late Shatruhan Lahre, aged about 08 years.
5. Kundan son of Late Shatruhan Lahre, aged about 05 years.

Nos. 2 to 5 are minor, represented through mother Smt. Rukhmani Lahre wife of Shatruhan Lahre,

6. Ku. Khushi daughter of Ram Singh Lahre, aged about 18 years

All are resident of Village Kaneri Police Station Chakarbhatta, Tahsil and District Bilaspur, C.G. at present address Mini Basti, neare Jatiya Talab, Police Sation Civil Line, Tahsil and District Bilaspur, C.G.

7. Smt. Ramshila wife of Ram Singh Lahre, aged about 50 years,
8. Ram Singh Lahre son of late Kariya Lahre, aged about 52 years.

Nos. 7 & 8 are resident of village Kaneri, Police Station Chakarbhatta Tahsil and District Bilaspur, C.G.

----Appellants**Versus**

1. Dinesh Jatav Son of Shriram Jatav aged about 26 years, resident of Purani Gadi Gadda Road, Dabra near Sabji Mandi, Dabra, P.O. Dabra, District Gwalior, M.P.
2. Balwant Rao Nikam son of Shri Devajirao Nikam, resident of 57, near Patel Nagar, P.O. Sohagi, Jabalpur, M.P. PIN 482002.
3. The Branch Manager, United India Insurance Company Limited, Branch Office Vyapar Vihar, Gurukripa Tower, Bilaspur, C.G.

---- Respondents

For Appellants
For Respondents

Shri G.P. Kurre, Advocate.
None.

Hon'ble Shri Justice Gautam Chourdiya
Judgment on Board

12.04.2019

1. Heard on admission.
2. This appeal is by the claimants under Section 173 of the Motor Vehicles Act, 1988 against the award dated 08.01.2019 passed by 7th Additional Motor Accident Claims Tribunal, Bilaspur, C.G. in Claim Case No. 217/2017 awarding total compensation of Rs.13,60,240/- with interest @ 8% per annum from the date of application of application till realization, fastening liability on non-applicant no.3/Insurance Company.
3. As per claim petition, on 22.03.2017, deceased Shatruhan Lahre, aged about 30 years, earning Rs.1,000/- per day as Auto Rickshaw Driver and also doing agriculture work, died in the motor vehicular accident caused due to rash and negligent driving of Truck bearing registration no. MP20-HB-1217 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.
4. On claim petition being filed by the claimants i.e. wife, children and parents of deceased under Section 166 of the Motor Vehicles Act for compensation to the tune of Rs.37,01,722/-, the Tribunal considering the evidence led by both the parties passed an award as mentioned in para 1 of this judgment.
5. Learned counsel for the appellants submits that he has raised various grounds in his 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.6,000/- per month whereas it should have been Rs.1,000/- per day looking to the job of the deceased.

- (ii) that 1/5th deduction towards personal and living is also against the law.
- (iii) that multiplier of 16 has wrongly been applied and considering the age of the deceased, it should have been 17.
- (iv) 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 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.***

- 6. Heard learned counsel for the appellants and perused the impugned award.
- 7. As regards income of the deceased, though the claimants have pleaded that the deceased was earning Rs.1,000/- per day as a Auto Rickshaw Driver and also doing agriculture work 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 been considered as Rs.6,000/- per month on notional basis by the Tribunal. The Tribunal further considering the age of the deceased as 31 years 2 months on the basis of documents available on record, the dependency, the nature of his job, keeping in view the decisions of Hon'ble Supreme Court in ***Smt.***

Sarla Verma and others Vs. Delhi Transport Corporation and another, (2009) 6 SCC 121, applied multiplier of 16, deducted 1/5th towards personal and living expenses of the deceased and also awarded 40% towards future prospects. The Tribunal further awarded Rs.15,000/- for funeral expenses, Rs.40,000/- towards loss of consortium and Rs.15,000/- towards loss of estate. 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.13,60,240/- awarded by the Tribunal as compensation with interest @ 8 per annum from the date of application till realization, cannot be said to inadequate or on the lower side. The said assessment appears to be just and proper, in conformity with the decisions of Hon'ble Supreme in the matters of Sarla Verma (supra) & ***National Insurance Company Ltd Vs. Pranay Sethi, (2017) 16 SCC 680***. Therefore, there is no need to interfere with the award impugned.

8. 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