

AFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 1096 of 2016**

1. Laxman Prasad Gupta S/o Shri Hanuman Gupta, Aged About 47 Years
2. Smt. Vimla Gupta W/o Laxman Prasad Gupta, Aged About 45 Years

Both are R/o Dhobahar, Tahsil- Marwahi, P.S.- Pendra, Distt. Bilaspur, Chhattisgarh, Present Address- Village- Patharra, Distt. Bilaspur, Chhattisgarh.

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1. Dadua @ Daan Bahadur Singh S/o Shri Tribhuwan Singh, Aged About 37 Years, R/o Manora, Post- Jaitahari, Distt. Anuppur M.P.
2. Abhishekh Singh Rajput S/o Shri Bharat Singh Rajput, R/o Sanjay Chowk Pendra, Distt. Bilaspur, Chhattisgarh.
3. Branch Manager, The Oriental Insurance Company Ltd. Transport Nagar, Korba, Distt. Korba, Chhattisgarh.

---- Respondents

For Appellants	Shri Rajbahadur, Singh, Advocate.
For Respondent No.3	Shri Arun Kumar Shukla, Advocate.

Hon'ble Shri Justice Gautam Chourdiya
Judgment on Board

10/05/2019

This appeal is by the claimants against the award dated 10.05.2016 passed by Additional Tribunal Katghora of Additional Motor Accident Claims Tribunal, Katghora, District Korba, C.G. in Claim Case No.134/2014 awarding total compensation of Rs.4,38,000/- with interest @ 9% per annum from the date of application till realization, fastening liability on the Insurance Company.

02. As per claim petition, on 19.06.2014 deceased Lav Kumar, aged about 22 years, earning Rs.8,000/- per month by running mobile shop,

died in the motor vehicular accident caused due to rash and negligent driving of bus bearing no.CG10-G-0308 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.10,04,000/-, 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.6,000/- per month, looking to the job of the deceased.
- (ii) that multiplier of 17 has wrongly been applied and considering the age of the deceased, it should have been 18.
- (iii) that no amount towards future prospect has been granted to the claimants.
- (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 & 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 submits that the Tribunal has erred in deducting 1/3rd towards personal and living expenses of the deceased whereas it should have been ½ as the deceased was unmarried.
06. No counter appeal has been filed by the respondents as submitted by both 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.8,000/- per month by running mobile 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 is considered as Rs.5,500/- per month as per minimum wages at the relevant time as skilled labour. Further, considering the age of the deceased i.e. 25 years, 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.	Heads	Calculation
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No.		(in rupees)
01.	Income of the deceased @ Rs.5,500/- per month.	Rs.66,000/- per annum
02.	40% of (i) above to be added towards future prospects.	Rs.26,400/- Rs.66,000 + Rs.26,400 = Rs.92,400/-
03.	1/2 deduction towards personal and living expenses of the deceased	Rs.46,200/-
04.	Multiplier of 18 to be applied	Rs.8,31,600/-
05.	Towards loss of estate and funeral expenses	Rs.30,000/-
06.	Towards loss of filial consortium	Rs.20,000/- (as awarded by the Tribunal)
	Total compensation	Rs.8,81,600/-

Since the Tribunal has already awarded Rs.4,38,000/-, after deducting the same from the above amount, the claimants are held entitled for additional compensation of Rs.4,43,600/- 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