

AFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MAC No. 628 of 2018

1. Smt. Tulsi Bai Sinha W/o Lakhmuram Sinha Aged About 51 Years
2. Lakhmuram Sinha S/o Kamluram Sinha Aged About 61 Years

Both R/o Village Dahikonga, P.S. Tahsil And District Kondagaon, Chhattisgarh (Claimants),

---- Appellants/claimants

Versus

1. Raspal Singh S/o Hazara Singh Aged About 48 Years R/o House No.642, Kansiram Nagar, Telibandha, Ring Road No.1, Raipur, District Raipur, Chhattisgarh (Vehicle Truck No. C.G.04 E 5522, Driver),
2. Smt. Amarjeet Kaur W/o Late Arjun Singh Kaur R/o House No. 642, Kansiram Nagar, Telibandha, Ring Road No.1, Raipur, District Raipur, Chhattisgarh (Vehicle Truck No. C.G.04-E-5522, Owner),
3. Branch Manager National Insurance Company Ltd. Branch Office Nearby R.M.S. Office, Jagdalpur, District Bastar, Chhattisgarh (Vehicle Truck No. C.G.04-E-5522 And Motorcycle No. CG 17-K-0270 Insurer),
4. Bhagrati Baghel S/o Arjun Baghel Aged About 61 Years R/o Village Kakargaon, P.S. And District Kondagaon, Chhattisgarh (Motorcycle No. CG 17-K-0270, Owner),

---- Respondents

MAC No. 662 of 2018

1. Smt. Bhajbati Baghel W/o Bhagrati Baghel Aged About 51 Years
2. Bhagrati Baghel S/o Arjun Baghel Aged About 61 Years

Both R/o Village Kakargaon, Post Dahikonga, P.S., Tahsil And District Kondagaon, Chhattisgarh (Claimants),

---- Appellants/claimants

Versus

1. Raspal Singh S/o Hazara Singh Aged About 48 Years R/o House No. 642, Kansiram Nagar, Telibandha Ring Road No.1, Raipur,

District Raipur, Chhattisgarh (Vehicle Truck No. C.G.04-E-5522, Driver),

2. Smt. Amarjeet Kaur W/o Late Arjun Singh Kaur R/o House No. 642, Kansiram Nagar, Telibandha, Ring Road No.1, Raipur, District Raipur, Chhattisgarh (Vehicle Truck No. C.G.04-E-5522, Owner),
3. Branch Manager National Insurance Company Ltd., Branch Office Nearby R.M.S. Office, Jagdalpur, District Bastar, Chhattisgarh (Vehicle Truck No. C.G.04-E-5522 And Motorcycle No. CG 17-K-0270, Insurer),

---- Respondents

For Appellants	:	Shri Pushkar Sinha, Advocate.
For Respondent No.3	:	Shri Sanjay Patel, Advocate.
For other Respondents	:	None.

Hon'ble Shri Gautam Chourdiya, J

Judgment On Board

26/06/2019

Since both these appeals filed by the claimants under Section 173 of the Motor Vehicles Act, 1988 arise out of the common award dated 12.12.2017 passed by Motor Accident Claims Tribunal, Kondagaon (CG) in Claim Cases No.36/2017 & 37/2017, they are being disposed of by this common judgment.

02. As per averments in the claim petitions, on 20.2.2017 at around 9.30 pm, non-applicant No.1 Raspal Singh by driving vehicle Truck bearing registration No. CG 04 E 5522, owned by non-applicant No.2 Smt. Amarjit Kaur and insured with non-applicant No.3/National Insurance Co. Ltd., in a rash and negligent manner, parked the same on the middle of the road without any indicator and on account of this, the motorcycle being ridden by Jailal Sinha, in which Chandrashekhar was pillion rider, got dashed against it. As a result of this accident, Jailal Sinha and Chandrashekhar suffered grievous injuries and both of them died on the spot itself.

03. Separate Claim petitions were filed by the claimants parents of the deceased namely Jailal Sinha & Chandrashekhar Baghel under Section 166 of the Motor Vehicles Act which were registered as Claim Cases No.36/2017 & 37/2017. The Tribunal considering the evidence led by the parties by a common award decided both the claim cases, thereby awarding compensation of Rs.6,72,600/- in favour of the respective claimants with interest @ 9% per annum from the date of claim petitions till realization, fastening liability on the non-applicants No. 1 to 3 jointly and severally.

04. MAC No.628/2018 arises out of Claim Case No.36/2017 whereas MAC No.662/2018 arises out of Claim Case No.37/2017. Both these appeals have been filed by the claimants seeking enhancement of compensation on the sole ground that the Tribunal was not justified in assessing income of the deceased persons as Rs.4500/- per month whereas in view of minimum wages at the relevant time, it should have been considered as Rs.6000-7000/- per month.

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 matter has rightly awarded compensation which needs no interference by this Court.

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

07. As regards income of the deceased, though the claimants in Claim Case No.36/2017 have pleaded that the deceased Jailal Sinha was earning Rs.15,000/- per month by running a poultry farm and the claimants in Claim Case No.37/2017 have pleaded that the deceased Chandrashekhar was earning Rs.300/- per day as a mason 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 persons is considered as Rs.6000/- per month as per minimum wages at the relevant time. Further, considering the age of the deceased persons, 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 **National Insurance Co. Ltd. Vs. Pranay Sethi, (2017) 16 SCC 680**, the claimants are held entitled for compensation in the following manner:

MAC No.628/2018 (Claim Case No.36/2017):

Sl. No.	Heads	Calculation (in rupees)
01.	Income of the deceased Jailal Sinha @ Rs.6000/- per month.	72,000/- per annum
02.	40% of (i) above to be added towards future prospects.	72,000 + 28,800 = 1,00,800/-
03.	50% deduction towards personal and living expenses of the deceased.	50,400/-
04.	Multiplier of 17 to be applied	8,56,800/-
05.	Towards loss of estate and for funeral expenses	30,000/-
	Total compensation	8,86,800/-

Since the Tribunal has already awarded Rs.6,72,600/-, after deducting the same from the above amount, the claimants are held entitled for additional compensation of Rs.2,14,200/- with interest as awarded by the Tribunal.

MAC No.662/2018 (Claim Case No.37/2017):

Sl. No.	Heads	Calculation (in rupees)
01.	Income of the deceased Chandrashekhar Baghel @ Rs.6000/- per month.	72,000/- per annum
02.	40% of (i) above to be added towards future prospects.	72,000 + 28,800 = 1,00,800/-
03.	50% deduction towards personal and	50,400/-

	living expenses of the deceased.	
04.	Multiplier of 17 to be applied	8,56,800/-
05.	Towards loss of estate and for funeral expenses	30,000/-
	Total compensation	8,86,800/-

Since the Tribunal has already awarded Rs.6,72,600/-, after deducting the same from the above amount, the claimants are held entitled for additional compensation of Rs.2,14,200/- with interest as awarded by the Tribunal.

08. In the result, both the appeal are allowed in part with modification in the impugned award to the above extent. However, rest of the conditions of the impugned award shall remain intact.

Sd/

(Gautam Chourdiya)

Judge