

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 1259 of 2012**

- United India Insurance Co. Ltd. Paras Complex near Sai Gurudwara, Station Road Durg (C.G.) through Divisional Manager United India Insurance Co. Ltd. Bilaspur (C.G.) (Insurer of Car- CG07MA4025).

---- Appellant**Versus**

1. Sudha Chandrikkapure Wd/o Late Jairaj aged about 36 years,
2. Ku. Pragya Chandrikapure, aged about 12 years, D/o Jairaj
3. Ku. Ansu Chandrikapure, aged about 9 years, D/o Jairaj,
4. Ku. Sneha Chandrikapure, aged about 7 years, D/o Jairaj,

All R/o respondents No. 2 to 4 minor, through Guardian Sudha Chandrikapure, Sanjay Nagar, Supela Bhilai, Distt. Durg (CG).

5. Vaibhav Singh Pawar S/o Vijay Singh 28 years R/o 24, Kadambirinagar Bhilai (Durg) C.G. (Driver).
6. V. S. Pawar S/o Jairaj Singh R/o 24, Kadambir Nagar Bhilai (Durg) C.G.

-----Respondents

For Appellant	:Shri Anand Gupta, Advocate.
For Respondent No.1 to 4	:Shri Syed Majid Ali, Advocate.
For Respondent No.5 & 6	:None

Hon'ble Shri Gautam Chourdiya, J
Judgment On Board

04.04.2019

This appeal is by the Insurance Company against the award dated 28.09.2012, passed by 6th Additional Motor Accident Claims Tribunal, Durg, District- Durg, C.G. in Claim Case No.71/2011 awarding

total compensation of Rs. 8,02,092/- with interest @ 6% per annum from the date of application till realization, fastening liability on the non-applicant Nos. 1,2 &3 jointly and severely.

02. As per claim petition, on 25.06.2011, deceased Jairaj, aged about 43 years, earning Rs.10,000/- per month by working under the contractor at H.S.C.L and also working at clothes shop died in the motor vehicle accident caused due to rash and negligent driving of vehicle(car) bearing registration No. CG07-MA/4025 by non-applicant No.1 Vaibhav Singh Pawar. The offending vehicle is owned by non-applicant No. 2- Shri V. S. Pawar and insured with non-applicant No. 3 United India Insurance Company Ltd.

03. On claim petition being filed by the claimants/wife & children of the deceased- Jairaj under Section 166 of the Motor Vehicles Act, the Tribunal considering the evidence led by both the parties passed an award as mentioned above.

04. Learned counsel for the appellants/Insurance Company submits that income of the deceased considered by the Tribunal is on higher side as the deceased was at the time of accident not a regular employee and working as daily wages. He also submits that 1/4th deduction towards personal and living expenses of the deceased is also against the law and it should have been 1/3rd. He further submits that the amount awarded under the conventional heads also being on the higher side deserves to be reduced suitably.

05. On the other hand, learned counsel for the respondent nos. 1 to 4/claimants submits that the Tribunal considering the relevant aspects of the matters 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. No counter appeal is filed by the respondents, submitted by learned counsel appearing for the parties.

08. As regards income of the deceased, the learned Tribunal considered income of the deceased as Rs.4093.54/-per month is just and proper as per minimum wages at the relevant time. So far as the deduction part toward living & personal expenses of the deceased is concerned, the number of dependent persons are four and as per law led down in the Apex Court Judgment in the matter of ***Smt. Sarla Verma and others VS. Delhi Transport Corporation and another, (2009) 6 SCC 121***, 1/4th deduction is rightly considered by the learned Tribunal which needs no interference. At the time of accident, the age of the deceased was 43 years, therefore, the multiplier of 14 have rightly been applied. Further, considering the dependency, the nature of his job and the decisions of the Hon'ble Supreme Court in ***Sarla Verma, (Supra), National Insurance Co. Ltd. Vs. Pranay Sethi, (2017) 16 SCC 680***, the amount of compensation awarded to the claimants are just & proper which needs no interference by this Court and there is no substance in the arguments advanced on behalf of the appellant/Insurance Company.

09. Accordingly, the miscellaneous appeal being devoid of merit is liable to be and is hereby dismissed. No order as to costs.

Sd/-

(Gautam Chourdiya)
Judge