

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR****MAC No. 850 of 2019**

1. Smt. Urmila Sharma W/o Late Ramavtar Sharma Aged About 53 Years
2. Ravi Sharma S/o Late Ramavtar Sharma Aged About 26 Years
3. Smt. Jyoti Vishwakarma W/o Pritesh Vishwakarma Aged About 25 Years R/o Badaipara, Tatyapara, Ward No. 38, Raipur, District- Raipur, Chhattisgarh.
4. Smt. Preeti Vishwakarma W/o Rahul Vishwakarma Aged About 23 Years R/o Jorapara, Raipur, District- Raipur, Chhattisgarh.

**----Appellants****Versus**

1. Birbal Vishwakarma S/o Badheshwar Vishwakarma Aged About 25 Years R/o Village- Ghodari, Ward No.13, Police Station Mahasamund, District- Mahasamund, Chhattisgarh. (Driver Of Vehicle Hero Honda CD Deluxe Bearing Registration No. Cg 04-HY-6573)
2. The Branch Manager The ICICI Lombard General Insurance Company Limited, Through the Branch Manager, Vanijiya Bhawan, Devendra Nagar Tiraha Chowk, Jail Road, Raipur, Tahsil And District- Raipur, Chhattisgarh. (Insurer Of Vehicle Hero Honda CD Deluxe Bearing Registration No. CG04-HY-6573)

**---- Respondents**


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| For Appellants  | Shri Shivendu Pandya, Advocate. |
| For Respondents | None.                           |

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**Hon'ble Shri Justice Gautam Chourdiya**  
**Judgment on Board**

**07/05/2019**Heard on **I.A. No.1**

1. This is an application for condonation of delay of 136 days in filing the MAC.
2. For the reasons mentioned in the application which is duly supported by affidavit, the same is allowed and delay in filing the

MAC is condoned.

3. Also, heard on admission.
4. This appeal is by the claimants against the award dated 20.08.2018 passed by the 2<sup>nd</sup> Additional Motor Accident Claims Tribunal, Mahasamund, C.G. in Claim Case No.118/2016 awarding total compensation of Rs.18,08,616/- with interest @ 6% per annum from the date of application till realization, fastening liability on the non-applicants jointly and severally.
5. As per claim petition, on 28.01.2016 deceased Ramavtar Sharma, aged about 54 years, earning Rs.17,180/- as Postman in the Irrigation Department, Kodar Project, Mahasamund, District Mahasamund, C.G., was travelling in motorcycle TVS CG06-J-1512 as a pillion rider. However, on the way non-applicant no.1 Birbal Vishwakarma by riding the vehicle bearing no.CG04-HY-6573 in a rash and negligent manner dashed the said motorcycle. As a result of this accident, Ramavtar Sharma suffered grievous injuries and died during treatment. At the time of accident, offending vehicle was owned by respondent no.1/non-applicant no.1 and insured with respondent no.2/non-applicant no.2.
6. On claim petition being filed by the claimants i.e. wife, major son and married daughter of the deceased under Section 166 of the Motor Vehicles Act for compensation to the tune of Rs.37,92,400/-, the Tribunal considering the evidence led by both the parties passed an award as mentioned in para 1 of this

judgment.

7. 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 sole ground that in the facts and circumstances of the case the amount awarded by the Tribunal under the head of love and affection is very much on lower side and needs to be enhanced suitably.
8. Heard learned counsel for the appellants and perused the impugned award.
9. As regards income of the deceased, the Tribunal was justified in assessing the income of the deceased as Rs.17,180/- per month as per Ex.P-13 i.e. salary slip. The Tribunal considering the age of the deceased as 54 years on the basis of documents available on record, the dependency, keeping in view the decision of 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,*** applied multiplier of 11, deducted 1/3 towards personal and living expenses of the deceased and also awarded 15% towards future prospects. The Tribunal further awarded Rs.15,000/- towards loss of estate, Rs.15,000/- towards funeral and Rs.40,000/- towards loss of spousal consortium. Considering the facts and circumstances of the case, the nature and quality of evidence adduced by the claimants as reflected from the

impugned award and not disputed by the appellants/claimants' counsel, the said assessment appears to be just and proper, warranting no interference by this court.

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

Akhilesh