

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 739 of 2016**

- United India Insurance Company Limited, Through its Divisional Manager, Divisional Office, Guru Kripa Towers, Vyapar Vihar Road Bilaspur, Distt.- Bilaspur (C.G.).

---- Appellant/claimant**Versus**

1. Savitri Verma, Wd/o- Late Bhagwandeem Verma, aged about- 45 years,
2. Subhendu Verma, S/o- Late Bhagwandeem Verma, aged about- 24 years,
3. Ku. Sheelu Verma, D/o- Late Bhagwandeem Verma, aged- 22 years,

Respondent No. 1 to 3 all are R/o- H. No. -02, Sai Vihar Colony, Yadundandan Nagar, Tifra, P.S.- Sirgitti, Tah. & Distt.- Bilaspur (C.G.)

4. Vijay Kumar Lahre, S/o Anandram Lahre, aged about- 29 years, R/o- Danteshwari Ward, Jagdalpur, P.S.- Bodhghat, Distt.- Bastar (C.G.)

Probable address-

A. Dindayal Upadhyay Ward Jagdalpur, Distt- Bastar (C.G.)

B. Through vehicle owner- Vinod Chaturvedi S/o- C.S. Chaturvedi, aged- 34 years, R/o- Kirandul, P.S.- Kirandul, District- Dantewada (C.G.) (Driver of Car Bearing Registration No.- C.G.-17C-08565)

5. Vinod Chaturvedi S/o- C.S. Chaturvedi, aged- 34 years, R/o- Kirandul, P.S.- Kirandul, Distt.- Dantewada (C.G.) (Owner of Car Bearing Registration No.- C.G.- 17C-0865).

---- Respondents

For Appellant	:Shri Dashrath Gupta, Advocate,
For Respondent Nos. 1 to 3.	: Ms. Priya Sharma, Advocate on behalf of Shri Goutam Khetrapal, Advocate.
For Respondent Nos. 4 & 5	: Ms. Smita Ghai, Advocate,

Hon'ble Shri Gautam Chourdiya, J**Judgment On Board**

15.03.2019

1. This is insurer's appeal filed under section 173 of the Motor Vehicles Act, 1988 (henceforth "MV Act, 1988") against the award dated 22.03.2016, passed by Third Additional Motor Accident Claims Tribunal, Bilaspur (for short 'the Claims Tribunal') in claim case No. 349/2014 awarding total compensation of Rs. 23,11,968/- alongwith interest @ 6% pa from the date of application till realization, fastening liability on the Non-applicants jointly and severally.

2. Facts of the case are that, when on 21.03.2014, Bhagwandeem Verma (since deceased), who was earning Rs. 40,000/- per month, was travelling as occupant of the Car bearing registration No. CG-04/H/4798, non-applicant No. 1/driver – Vijay Kumar Lahre, while driving the offending vehicle Car bearing registration No. CG-C.G. 17-C/0865 rashly and negligently, dashed the car of the deceased, as a result of which Bhagwandeem Verma sustained multiple injuries and died on the way to the Hospital.

3. On claim petition being filed by the claimants, who are unfortunate wife and Children of deceased- Bhagwandeem Verma under Section 166 of the Motor Vehicles Act, the Tribunal considering the evidence led by both the parties passed an award as mentioned above. The vehicle is owned by non-applicant No. 2 & insured with non-applicant No. 3.

4. Being aggrieved & dissatisfied with the aforesaid award, the instant appeal has been preferred by the appellant/Insurance Company.

5. Learned counsel for the appellant/Insurance Company submitted that the deceased was aged about 57 years at the time of death and he would have attained the age of retirement in about 5 years and after five years, the income of the deceased would not have been Rs. 30,444/- per month but only 50% of it as pension, and consequently, the loss of dependency should

have been 50% but the learned Tribunal has assessed the multiplier of 9 for the whole salary of the deceased on the date of accident. He also submits that amount awarded under the head of other conventional head is also on the higher side.

6. Also heard on cross objection filed by the respondents No. 1 to 3/claimants under Order 41 Rule 22 of the Code of Civil of Procedure seeking enhancement of amount under award.

7. Learned counsel for the respondents No. 1 to 3/claimants, while supporting the award impugned, submits that in view of the decision rendered by Supreme Court in the matter of **Sarla Verma (Smt.) & others V. Delhi Transport Corporation and another** reported in **2009 (6) SCC 121**, multiplier has rightly been applied on the whole income of the deceased, which does not call for any interference. She also submits that no amount towards future prospect is awarded.

8. Learned counsel for the respondent Nos. 4 & 5/Driver & Owner of the offending vehicle opposed the contention made by learned counsel for the claimants and submits that there is no need to enhance the award amounts.

9. Learned counsel for the appellant/insurance Company submits that there is no need to enhance the award amount as per the cross-objection filed by the claimants.

10. I have heard learned counsel appearing for the parties and perused the impugned award with utmost circumspection.

11. It is not disputed by Insurance Company that the date of birth of the deceased was, according to his service record, is 07.02.1958 therefore, the multiplier applied by the Tribunal is absolutely correct as per decision of the Supreme Court in the matter of **Sarla Verma (Smt.) (Supra)**, no any other

contrary document has been produced by the Insurance Company regarding the age of the deceased. In these circumstances, I am of the view that learned Claims Tribunal has rightly applied the multiplier of 9 for the purpose of computation of compensation, which does not call for any interference in the appeal preferred by appellant/Insurance Company. Thus, appeal filed by the appellant/Insurance Company is liable to be and is hereby dismissed. 12.

However, the claimants, by filing cross-objection, as per Ex. P/7 salary slip, the income of the deceased as Rs. 30444/-pm considered by the learned Tribunal is just & proper. The Tribunal has also not awarded any sum towards future prospect, looking to the age of the deceased i.e. 57 years, 15% towards future prospect would be added to the yearly income of the deceased in view of the judgment of the Apex Court in the matter of ***National Insurance Co. Ltd. Vs. Pranay Sethi, (2017) 16 SCC 680***. In the light of Supreme Court judgment in the matter of ***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***, the amount awarded towards love & affection to the claimants No. 2 & 3 as Rs. 25,000/- each by the Tribunal is kept intact as parental consortium. Further, considering the job, dependency and the judgments of the Supreme Court in the matter of ***Smt. Sarla Verma (Smt.), Pranay Sethi, (Supra)***, I propose to re-compute the amount of compensation as under :-

Sl. No.	Heads	Calculation (in rupees)
01.	Income of the deceased @ Rs.30,444/- per month	Rs.30,444x12= Rs. 3,65,328/- per annum
02.	15% of (i) above to be added towards future prospects.	Rs. 3,65,328+54,799= Rs. 4,20,127/-
03.	After 1/3rd deduction towards personal and	Rs. 2,80,085/-

	living expenses of the deceased	
04.	Multiplier of 9 to be applied	Rs. 25,20,761/-
05.	Towards parental consortium	Rs. 50,000/- (Rs.25,000 to respondent Nos 2 & 3) as awarded by the Tribunal
06.	Towards loss of Estate, loss of funeral, and spousal consortium	Rs.70,000/-
07.	Total compensation	Rs. 26,40,761/-

12. Since the Tribunal has already awarded Rs.23,11,968/-, after deducting the same, the claimants are held entitled for additional compensation of Rs.3,28,793/- with interest @ 6% per annum from the date of application till realization. However, rest of the conditions of the impugned award shall remain intact.

13. In view of the above, appeal filed by the appellant/Insurance Company is liable to be and is hereby dismissed whereas cross-objection filed by the claimants/respondents No. 1 to 3 is allowed in part.

Sd/-

(Gautam Chourdiya)

Judge