

AFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 902 of 2019**

1. Branch Manager Royal Sundram Alliance Insurance Company Ltd. Rama Trade Centre, Near Purana Bus Stand, Bilaspur, Disrtict-Bilaspur (C.G.) (Insurer Of The Offending Vehicle Swift Desire Car No. M.P. 07 C.A. 8925) (Insurer/non-Applicant No.1)

---- Appellant**Versus**

1. Sushila D/o Late Shri Hulasram Aged About 17 Years,
2. Yogendra S/o Late Shri Hulasram Aged About 14 Years,
3. Manmatiya W/o Late Shri Hulasram Aged About 45 Years,
4. Puran S/o Late Shri Hulasram Aged About 27 Years,

Respondent No.1 & 2 through legal guradian Respondent No. 3 Manmatiya

Respondnet No. 1 to 4 R/o Chingrajpara, Police Station-Sarkanda, Tahsil And Disrtict- Bilaspur (C.G.) (Claimants).

5. Pramod Singh S/o Late Shri Rajaram Gond Aged About 28 Years R/o Surajpur, (C.G.) (Driver Of Offending Vehicle Swift Desire Car No. M.P. 07 C.A. 8925) (Non-Applicant No.2/driver),
6. Geetam Singh S/o Late Shri Sant Singh Tomar R/o 223, Jiwaji Nagar, Thatipur, Gwalior, Madhya Pradesh (Owner Of Offending Vehicle Swift Desire Car No. M.P. 07 C.A. 8925).....(Non-Applicant No.3/owner)

---- Respondents

For Appellant	:	Shri Anupam Dubey, Advocate.
For Respondents	:	None.

Hon'ble Shri Gautam Chourdiya, J**Judgment On Board****13/05/2019**

- 1) Heard on **I.A. No. 01**, application for condonation of delay of 77 days in filing the appeal.

- 2) For the reasons mentioned in the application, which is duly supported by affidavit, application is allowed and delay in filing the appeal is hereby condoned.
- 3) Also heard on admission.
- 4) This appeal is preferred by the Insurance Company under Section 173 of the Motor Vehicles Act, 1988 against the award dated 14/11/2018 passed by First Additional Motor Accident Claims Tribunal Bilaspur (C.G.) in Claim Case No. 465/2016 awarding total compensation of Rs. 49,28,436/- with interest @ 6% per annum from the date of application till realization, fastening liability on the Insurance Company.
- 5) As per averments in the claim petition, deceased Hulasram on 09/05/2015 at around 07:30 PM, aged about 52 years, earning Rs. 58,421/- per month as Support Mistry in SECL Kumda Colliery Balrampur was riding motorcycle returning his home, near Sunil Hotel Ganeshpur non-applicant 2/respondent No.5, who was driving the Swift Car (offending vehicle) bearing No. MP07 CA 8925 rashly and negligently dashed the motorcycle of deceased. Consequently, deceased Hulasram suffered grievous injury and died during treatment. Offending vehicle was owned by non-applicant No.3 and insured with non-applicant No. 1.
- 6) On claim petition being filed by the claimants' wife and children of the deceased under Section 166 of the Motor Vehicles Act, the Tribunal considering the evidence led by both the parties passed an award as mentioned above.
- 7) Learned counsel for the appellant submits as though he has raised various grounds in his memo of appeal, however, he is not pressing all those grounds and is assailing the awards on the following grounds only :-
 - i. That the monthly income of the deceased has wrongly been considered by the Tribunal, which is on higher side.

- ii. that the income tax is deducted on the basis of annual income alongwith future prospect and thereafter deducted income tax. Its wrongly applied by the learned Tribunal.
- 8) I have heard learned counsel for the appellant and perused the award impugned.
- 9) As regards income of the deceased Hulasram was salary paid permanent employee and earning Rs. 58,421/- per month as per Ex. P-7, it is just and proper considering the income Rs. 49,196/- per month salary after deducting exempted allowances and looking to the age of the deceased, 15% future prospect is considered and thereafter as per slab of Income Tax 20% income tax deducted, which is just and proper as per evidence and settled principle. The Tribunal considering the age of the deceased as 52 years on the basis of documents available on record, the dependency, nature of job as permanent Government employee 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 11, deducted 1/3 towards personal and living expenses of the deceased and also 15% towards future prospects. The Tribunal further awarded Rs. 40,000/- towards loss of consortium, Rs. 15,000/- towards funeral expense and Rs. 15,000/- towards loss of estate. Considering the facts and circumstances of the case, the nature and quality of evidence adduced by the claimants as reflected from the impugned award, 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