

AFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 474 of 2015**

1. Smt. Phulo @ Phulwa And Anr. W/o Late Neharu Aged About 43 Years
2. Ku. Basanti S/o Late Neharu Aged About 20 Years

Both are R/o Village- Tatapani P.S. - Ramanujganj District-
Balrampur- Ramanujganj, Chhattisgarh.

---Appellants**Versus**

1. Ramesh Singh S/o Rajdeo Singh Aged About 32 Years R/o Village- Tetariya P.S.- Deo Distt.- Orangabad, Bihar, Occupation Driver
2. Rambabu Sahani S/o Raghuni Sahani, aged Major Occupation- Owner R/o Village- Kohi Post-Govind Panjajiya P.S. Runi Shaidpur Distt.- Sitamarhi, Bihar.
3. Branch Manager Bajaj Allianj General Insurance Company Limited G.E. Palaza Airport Road Yervada Punne Maharastra Through The Branch Manager Bajaj Allianj General Insurance Company Ltd. Shivmohan Bhawan Vidhansabha Road Pandri Raipur District Raipur, Chhattisgarh.

---- Respondents

For Appellants	Shri A.N. Pandey, Advocate.
For Respondent No.1	None.
For Respondent No.2	Shri A.L. Singroul, Advocate.
For Respondent No.3	Shri Abhishek Sinha, Advocate along with Shri Vaibhav Maheshwari, Advocate.

Hon'ble Shri Justice Gautam Chourdiya
Judgment on Board

21/06/2019

1. Heard on **I.A. No.1**
2. This is an application for condonation of delay of 172 days in filing the MAC.

3. 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.
4. Also, heard on admission.
5. The appeal being arguable on merits is admitted for hearing.
6. With the consent of the parties, the matter is heard finally.
7. This appeal is by the claimants against the award dated 02.08.2014 passed by the Additional Motor Accident Claims Tribunal, Ramanujganj, District Balarampur, Ramanujganj, C.G. in Claim Case No.66/2012 awarding total compensation of Rs.3,56,000/- with interest @ 9% per annum from the date of award till realization, fastening liability on the non-applicant nos. 1 & 2 along with non-applicant no.3/Insurance Company.
8. As per averments in the claim petition mentioned in the impugned award, on 28.07.2011 deceased Nehru Toppo, aged about 45 years, earning Rs.6,000/- per month as Labour, died in the motor vehicular accident caused due to rash and negligent driving of Tanker bearing no. WB11-A-3049 by non-applicant No.1/respondent no.1. At the time of accident, offending vehicle was owned by non-applicant no.2/respondent no.2 and insured with non-applicant no.3/respondent no.3.
9. On claim petition being filed by the claimants i.e. wife and

daughter of deceased under Section 166 of the Motor Vehicles Act for compensation to the tune of Rs.15,30,000/-, the Tribunal considering the evidence led by both the parties passed an award as mentioned in para 7 of this judgment.

10. Learned counsel for the appellant/claimant 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 following grounds:-

- (i) that income of the deceased has wrongly been considered by the Tribunal as Rs.3,000/- whereas it should have been Rs.4,000/-.
- (ii) that no amount towards future prospect has been granted to the claimants.
- (iii) that the amount awarded under the conventional heads also being on the lower side deserves to be enhanced suitably.

In support of above contention, reliance has been placed on the decision of the Hon'ble Supreme Court in the matter of ***National Insurance Co. Ltd. Vs. Pranay Sethi, (2017) 16 SCC 680.***

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

12. Counsel for the respondent no.6 has duly assisted the Court.

13. Heard learned counsel for the parties and perused the impugned award.
14. As regards income of the deceased, though the claimants have pleaded that the deceased was earning Rs.6,000/- per month as Agriculture and Labour Work 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 is considered as Rs.4,000/- per month as per minimum wages at the relevant time. Further, considering the age of the deceased i.e. 45, 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 & Pranay Sethi** (supra), the claimants are held entitled for compensation in the following manner:

Sl. No.	Heads	Calculation (in rupees)
01.	Income of the deceased @ Rs.4,000/- per month.	Rs.48,000/- per annum
02.	25% of (i) above to be added towards future prospects.	Rs.12,000/- Rs.48,000 + Rs.12,000 = Rs.60,000/-
03.	1/3 deduction towards personal and living expenses of the deceased	Rs.20,000/- Rs.60,000 – Rs.20,000 = Rs.40,000/-

04.	Multiplier of 14 to be applied	Rs.5,60,000/-
05.	Towards loss of estate, loss of spousal consortium and funeral expenses	Rs.70,000/-
	Total compensation	Rs.6,30,000/-

Since the Tribunal has already awarded Rs.3,56,000/-, after deducting the same from the above amount, the claimants are held entitled for additional compensation of Rs.2,74,000/- with interest as awarded by the Tribunal. However, rest of the conditions of the impugned award shall remain intact.

15. In the result, the appeal is allowed in part with modification in the impugned award to the above extent.

Sd/-
(Gautam Chourdiya)
Judge

Akhilesh