

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR****MAC No. 1135 of 2014**

1. Smt. Urmila Devi W/o Late Rajendra Prasad Jaiswal, aged about 45 years.
2. Ajay Kumar Jaiswal S/o Late Rajendra Prasad Prasad Jaiswal, aged about 24 years,
3. Anup Kumar Jaiswal S/o Rate Rajendra Prasad Jaiswal, aged about 18 years,
4. Ku. Radha Jaiswal, D/o Late Rajendra Prasad Jaiswal, aged about 20 years.

All are R/o Village- Rouni, Tahsil- Bagicha, District- Jashpur (C.G.).

---- Appellants

**Versus**

1. Ravindra Kaur Gandhi, W/o Satvinder Singh, R/o- At 241 P.P. Compound, Police Station- Hindpidi, Ranchi, District- Ranchi (Jharkhand).
2. Mubarak Hussein, S/o Seraj Ansari, aged about 24 years, R/o- Upari Hisri, Police Station- Kisko, District- Lohardaga (Jharkhand).
3. The Oriental Insurance Company Ltd. Branch Office Raigarh, District- Raigarh (C.G.).

---- Respondents

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|----------------------|-------------------------------------------------------------------------|
| For Appellant        | : Shri S. S. Painkra, Advocate on behalf of Shri A. K. Prasad, Advocate |
| For Respondent No. 3 | : Shri T. K. Tiwari, Advocate.                                          |

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

**07.01.2019**

This is claimants' appeal seeking enhancement of compensation awarded by Motor accidents claims Tribunal, Jashpur District- Jashpur (for short 'the Tribunal') in claim case No. 25/2013 vide

award dated 27.08.2014.

2. Facts of the case, as per claim petition are that Rajendra Prasad Jaiswal (Since deceased) aged about 52 years was working as a cook at Hotel Ravi Dhaba and earning Rs. 6,000/- per months, on 23.3.2013 at about 6.30pm when he was returning from Loddam to Village Bhalmanda; respondent No. 2- Mubarak Husain was driving rashly and negligently the offending vehicle (truck) bearing registration No.OR-04/L-6853 dashed the Scooter of deceased- Rajendra Prasad, as a result of which he sustained grievous injuries and during treatment he died.

3. As against compensation of Rs.20,30,000/- claimed by unfortunate wife & Children of deceased- Rajendra Prasad Jaiswal, by filing claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short 'MV Act') for his death in the motor accident on 23.3.2013, the Tribunal awarded a total sum of Rs. 6,44,000/- as compensation along with Simple interest @ 9 % per annum from the date of application till its realization. The Tribunal has further directed if the awarded amount is not deposited within a period of one month from the date of award, the compensation shall carry additional interest @ of 2% per annum after one month from the date of award till realization.

4. Learned Tribunal, on a close scrutiny of the entire evidence led before it held that the accident has occurred due to rash and negligent driving of offending vehicle (truck) bearing registration No. OR-04/L-6853 by its driver respondent No.2; assessed and awarded aforesaid amount of compensation to the appellants/claimants. The learned Tribunal

fastened liability to pay compensation upon the respondent No. 1, 2 & 3/ Insurance Company.

5. Learned counsel appearing for the claimants would submit that the Tribunal has fallen in error in assessing the income of deceased as Rs. 6,000/- only looking to the age and job of the deceased. He also submits that the learned Tribunal has not awarded any amount towards future prospect which may also be provided. He would further submit that amount awarded under the head of funeral expenses and loss of estate is also on the lower side, which deserve to be suitably enhanced. He also submits that at the time of accident the deceased was having 3 children therefore in view of decision of Hon'ble Supreme Court in **Magma General Insurance Co. Ltd. Vs. Nanuram @ Chuhru Ram & Ors. In civil appeal No. 9581 of 2018 arising out of SLP[Civil] No. 3192 of 2018**, the claimants- sons and daughter of the deceased are held entitled for parental consortium.

6. Learned counsel for the respondent opposes the arguments made by learned counsel for the appellants/claimants and submits that learned Tribunal is justified in awarding total amount of Rs. 6,44,000/- to the claimants, therefore, there is no need to interfere with the award passed by the Claims Tribunal.

7. I have heard learned counsel appearing for the parties and perused the impugned award including the record of Claims Tribunal.

8. A bare perusal of the evidence adduced in the case would reveal that learned Tribunal considered as Rs. 6,000/- per month as per

evidence adduced by the claimant therefore, no any need to be interfered with the income of the deceased. At the time of accident, the deceased was having three children therefore, In the light of supreme Court judgment **Magma General Insurance Co. Ltd. Vs. Nanuram @ Chuhru Ram & Ors. (supra)** Rs. 10,000/-each granted towards filial (parental consortium) to the children. In view of the judgment of the Supreme Court in the matter **National Insurance Co. Ltd. Vs. Pranay Sethi** reported in **(2017) 16 SCC 680** & in the matter of **Sarla Verma (Smt.) & Others V. Delhi Transport Corporation and anr.** reported in **2009 (6) SCC121**, I consider Rs. 70,000/- towards conventional heads and multiplier of 11 would be use and would appropriate to award 10% towards future prospect in the yearly income of the deceased.

9. On the basis of above, I propose to re-compute the amount of compensation as under :-

| Sl. No. | Heads                                                                                 | Calculation                       |
|---------|---------------------------------------------------------------------------------------|-----------------------------------|
| 01.     | Income of the deceased                                                                | Rs.6,000x12=Rs.72,000/- per annum |
| 02.     | 10% of above to be added towards future prospects                                     | Rs =72,000+7,200/-= Rs.79,200/-   |
| 03.     | 1/4th deduction towards personal and living expenses of the deceased                  | Rs. 79,200- 19800=Rs. 59400/-.    |
| 04.     | Multiplier of 11 to be applied                                                        | Rs.59,400x11= 6,53,400/-          |
| 05.     | Towards other head(funeral expenses, loss of estate and filial & parental consortium) | Rs,70,000+ 30,000= Rs. 1,00,000/- |
| 06      | Total compensation towards loss of dependency                                         | Rs. 7,53,400/-                    |

10. In view of foregoing, the appeal filed by the claimants is partly allowed The compensation of Rs.6,44,000/- awarded by the Tribunal is

enhanced to Rs. 7,53,400/-. The additional amount of compensation of Rs. 1,09,400/- shall carry interest @ 9% per annum from the date of application till its actual payment. Rest of the conditions mentioned in the award shall remain intact. The award stands modified to the above extent.

11. The respondent No. 3/The Oriental Insurance Company is granted two months' time to deposit enhanced amount of compensation of Rs. 1,09,400/- along with interest before the concerned Tribunal. No order as to costs.

Sd/-

(Gautam Chourdiya)  
Judge

Amita