

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 1312 of 2014**

1. Rajesh Kumar Sahu S/o Prabhu Ram Sahu Aged About 30 Years
2. Smt. Om Bai W/o Rajesh Kumar Sahu Aged About 28 Years

Both are R/o Khartuli, P.S. Arjuni, Tahsil Dhamtari, Revenue and Civil District, C.G.

---Appellants**Versus**

1. Govind Nishad S/o Reva Ram Nishad Aged About 24 Years R/o Sinoda, P.S. Tilda Nevra, Distt. Baloda Bazar-Bhatapara C.G.
2. Chaitanya Salvex Pvt. Ltd. Proprietor Niraj Agrawal, R/o Baisar, Post-Tilda, Distt. Raipur C.G.
3. ICICI General Insurance Company Ltd. Lal Ganga Shopping Mall, Kachhari Chowk, G.E. Road, Raipur, Distt. Raipur C.G.

---- Respondents

For Appellants	Ms Laxmin Kashyup, Advocate on behalf of Shri P.K. Patel, Advocate.
For Respondent No.2	Smt. Arpana Singh, Advocate.
For Respondent No.3	Smt. Pratibha Das, Advocate.

Hon'ble Shri Justice Gautam Chourdiya
Judgment on Board

10/05/2019

This appeal is by the claimants against the award dated 01.10.2014 passed by Chief Motor Accident Claims Tribunal, Dhamtari, District Dhamtari, C.G. in Claim Case No.06/2014 awarding total compensation of Rs.70,000/- with interest @ 6% pa from the date of application till realization, fastening liability on the non-applicants jointly and severally.

2. As per claim petition, on 13.8.2013 at 3:45 pm Karan Sahu, aged

about 07 years, minor child, died in the motor vehicular accident caused due to rash and negligent driving of Metadoor bearing no.CG04-ZC-4832 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.

03. On claim petition being filed by the claimants i.e. Parents of deceased under Section 166 of the Motor Vehicles Act for compensation to the tune of Rs.8,80,000/-, the Tribunal considering the evidence led by both the parties passed an award as mentioned in para 1 of this judgment.

04. 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 following grounds:

(i) that no notional income of the deceased has been considered by the Tribunal.

(ii) that deduction towards personal and living expenses of the deceased should have been ½.

(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 decisions of the Hon'ble Supreme Court in the matters of **Smt. Sarla Verma and others VS. Delhi Transport Corporation and another, (2009) 6 SCC 121 & National Insurance Co. Ltd. Vs. Pranay Sethi, (2017) 16 SCC 680.**

05. 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.

06. Heard learned counsel for the parties and perused the material available on record.

07. Considering the facts and circumstances of the case, particularly the fact that it is not disputed by both the parties that the deceased Karan Sahu was minor aged about 7 years on the date of accident and had not started earning, had he been alive, he would have certainly contributed substantially to the family of appellants by working hard, therefore, in the opinion of this Court, ends of justice would be served, if the income of the deceased is considered as Rs.30,000/- per annum on notional basis. Further, considering the age of the deceased i.e. 7 years, the dependency and the decisions of the Hon'ble Supreme Court in *Sarla Verma & 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.30,000/- per annum
02.	1/2 deduction towards personal and living expenses of the deceased	Rs.15,000/-
03.	Multiplier of 15 to be applied	Rs.2,25,000/-
04.	Towards loss of estate and funeral expenses	Rs.30,000/-
	Total compensation	Rs.2,55,000/-

Since the Tribunal has already awarded Rs.70,000/-, after deducting the same from the above amount, the claimants are held entitled for additional compensation of Rs.1,85,000/- with interest @ 6% per annum from the date of application till realization. However, rest of the conditions of the impugned award shall remain intact.

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

Sd/-
(Gautam Chourdiya)
Judge

Akhilesh