

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 795 of 2014**

1. Shri Goverdhan S/o: Keju Ram Sahu, age: 46 years.
2. Ku. Muskan D/o: Goverdhan Sahu, age: 11 years.
3. Kabir S/o: Goverdhan Sahu, age: 07 years.
4. Ku. Santoshi D/o: Late. Girdhari Lal Sahu age: 25 years

Appellants 2 & 3 are minor hence impleaded through their Natural Guardian Appellant No. Shri. Goverdhan S/o: Keju Ram Sahu, age: 46 years.

All R/o: Ram Sagar Para, Raipur, Distt.- Raipur (C.G.).

---- Appellants/Claimants

Versus

1. Bhola Ram @ Meghnath S/o: Chiranjiv Lal Verma R/o: Village: Jhipan, P.S. Suhela, Distt.- Baloda- Bazar.
2. Dharmendra Kumar S/o: Chiranjiv Lal Verma R/o: Village: Jhipan, P. S. Suhela, Distt.- Baloda- Bazar.
3. I. C.I.C.I. Lombard General Insurance Co. Ltd. Through: In-charge Officer, Vanijya Bhavan, Devendra Nagar, Raipur.

---- Respondents

For Appellants	:	Shri Amiyakant Tiwari, Advocate.
For Respondent No.3	:	Shri Saurabh Sharma, Advocate.

Hon'ble Shri Gautam Chourdiya, J

Judgment On Board

26.03.2019

This appeal is by the claimants against the award dated 06.02.2014, passed by Chief Motor Accident Claims Tribunal, Raipur in

Claim Case No.104/2012 awarding total compensation of 24,47,316 with interest @ 6% per annum from the date of application till realization, fastening liability on the non-applicants jointly and severely.

02. As per claim petition, on 30.08.2011, deceased -Smt. Shobha Sahu, aged about 32 years, earning Rs. 30,000/- per month as Nurse (Govt. employee) in the Family Health Department, died in the motor vehicle accident caused due to rash and negligent driving of vehicle bearing registration No. CG 04KD/2037 by non-applicant No.1- Bholaram @ Meghnath. The offending vehicle is owned by non-applicant No. 2 & insured by non-applicant No. 3.

03. On claim petition being filed by the claimants/husband, children & sister 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.

04. Learned counsel for the appellants/claimants argues only on the ground that the deceased was the permanent salaried paid Government employee but the learned Tribunal wrongly not considered any amount towards future prospect to the claimants. Looking to the age of the deceased i.e. 32 years & nature of job (as permanent Govt. employee), 50% future prospect should be added into the income of the deceased.

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.***

05. He also submits that at the time of accident, the deceased was having 2 children & one younger sister therefore, in view of the 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- son, daughter and sister of the deceased are held entitled for some amount towards love and affection (parental *consortium*).

06. 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.

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

08. As regards income of the deceased, As per salary slip (Ex. P/14) Rs. 15,152/- per month considered by the learned Tribunal is just and proper as a nurse in the Family Health Department as government employee. At the time of accident, the deceased was having two children & one younger sister, therefore, in the light of Supreme Court judgment **Magma General Insurance Co. Ltd. Vs. Nanuram @ Chuhru Ram & Ors. (supra)** Rs. 2,00,000/- granted towards love and affection to the children & Rs. 25,000/- to the younger sister by the Tribunal is kept intact. Further, considering the age of the deceased and the decision of the Hon'ble Supreme Court in **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.15, 152 per month.	Rs. 15,152x 12= Rs. 18,1,824/- per annum
02.	50% of (1) above to be added towards future prospects.	Rs. 18,1,824+ 90,912= Rs. 27,2,736/-
03.	After 1/3rd deduction towards personal and living expenses of the deceased	Rs. 27,2,736 -90,912= Rs.18,1824/-
04.	Multiplier of 17 to be applied	Rs. 18,1,824x17= Rs. 30,91,008/-
05.	Towards loss of funeral expenses	Rs. 25,000/- as awarded by the Tribunal

06.	Towards loss of consortium	Rs. 1,00000 (as awarded by the Tribunal)
07.	Toward love and affection	2,00000+25,000= Rs. 3,25,000/- (as awarded by the Tribunal)
08.	Total Compensation	Rs. 34,41008/-

Since the Tribunal has already awarded Rs.24,47,316/-, after deducting the same from the above amount, the claimants are held entitled for additional compensation of Rs.9,93,692/-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