

HIGH COURT OF CHHATTISGARH, BILASPUR

MAC No. 994 of 2014

1. Smt. Sukawaro Bai W/o Late Mangal Singh Aged About 45 Years
2. Jairam Singh S/o Late Mangal Singh Aged About 26 Years
3. Ramesh Singh S/o Late Mangal Singh Aged About 22 Years
4. Kumari Savitri D/o Late Mangal Singh Aged About 16 Years

Applicant No.4 minor through the mother (natural guardian)
appellant No.1 Smt. Sukawaro Bai, All R/o Village Dabaripara,
Police Station Sarkanda, Bilaspur Tahsil and Distt. (Revenue and
Civil), Bilaspur (CG)

---- Appellants/applicants

Versus

1. Vivek Kumar Kaushik S/o Shatruhan Kaushik R/o Village Sarvoday Nagar, Pali, P.S. Pali, Distt. (civil and revenue) Korba C.G. (driver of Scorpio No. CG 12/R/5151)
2. S.P. Kaushik S/o Anuj Ram Kaushik R/o Village Sarvoday Nagar, Pali, P.S. Pali, Distt. Korba C.G. (owner of Scorpio No. CG 12/R/5151)
3. The National Insurance Co. Ltd. Thru- Branch Manager, Branch Office Taha Complex, Vyapar Vihar Road, Bilaspur, P.S., Tah. And Distt. (Civil and Revenue) Bilaspur C.G. (Insurer of Scorpio No. CG 12/R/5151)

---- Respondents

For Appellants	:	Shri Anand Kesharwani, Adv.
For Respondent Nos. 1 & 2	:	None though served.
For Respondent No.3	:	Shri Sanjay Agrawal, Adv.

Hon'ble Shri Gautam Chourdiya, J

Judgment On Board

13/03/2019

This appeal is by the claimants under Section 173 of the Motor Vehicles Act, 1988 against the award 9.5.2014 passed by III Additional Motor Accident Claims Tribunal, Bilaspur in Claim Case No.10/2013 awarding total compensation of Rs.21,77,200/- with interest @ 6% per annum from the date of application till realization, fastening liability on the non-applicants jointly and severally.

02. As per claim petition, on 9.11.2012 Mangal Singh, aged 47 years, earning Rs.52,907/- per month by working in SECL, was riding his motorcycle with pillion rider Shyam Singh and was going from Bilaspur to Dongri. However, on the way, non-applicant No.1 Vivek Kumar

Kaushil by driving Scorpio bearing No. CG 12 R 5151, owned by non-applicant No.2 and insured with non-applicant No.3, in a rash and negligent manner, dashed the said motorcycle, as a result of which Mangal Singh and Shyam Singh both suffered grievous injuries and during treatment, Mangal Singh succumbed to the same on 13.11.2012 in hospital.

03. On claim petition being filed by claimants, wife & children of deceased, u/s 166 of the Motor Vehicles Act, the Tribunal considering the evidence led by the parties passed an award as mentioned above.

04. Learned counsel for the appellants/claimants submits as under:

(i) that no amount towards future prospect has been granted to the claimants.

(ii) that the amount awarded under the conventional heads also being on the lower side deserves to be enhanced suitably.

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***, and ***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. Though counter appeal i.e. MAC No.924/2014 was filed by National Insurance Co. Ltd. against the impugned award, but the same was dismissed as withdrawn vide order dated 10.7.2015 with liberty to file cross objection in other appeal filed by the claimants. However, no such cross objection has been filed by the insurance company in the instant appeal.

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

08. Considering the age of the deceased i.e. 52 years as assessed by the Tribunal, the nature of job of the deceased i.e. permanent job

(salaried), in view of 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.24,400/- per month.	2,92,800/- per annum
02.	15% of (i) above to be added towards future prospects.	2,92,800 + 43,920 = 3,36,720/-
03.	1/3rd deduction towards personal and living expenses of the deceased	3,36,720 – 1,12,240 = 2,24,480/-
04.	Multiplier of 11 to be applied	24,69,280/-
05.	Towards loss of estate, loss of consortium and funeral expenses.	70,000/-
	Total compensation	25,39,280/-

Since the Tribunal has already awarded Rs.21,77,200/-, after deducting the same from the above amount, the claimants are held entitled for additional compensation of Rs.3,62,080/- with interest @ 6% per annum from the date of application till realization. However, rest of the conditions of the impugned award shall remain intact.

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

Sd/

(Gautam Chourdiya)

Judge