

AFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 435 of 2015**

1. Foolbati Nareti, wife of Late Shri Sop Singh Nareti, aged about 50 years,
2. Kanti Nareti, daughter of Late Shri Sop Singh Nareti, aged about 27 years,
3. Satyavati Nareti, daughter of Late Shri Sop Singh Nareti, aged about 20 years
4. Tarachand Nareti, Son of Late Shri Sop Singh Nareti, aged about 18 years
5. Rijhobai Nareti, wife of Late Mahanand Nareti, aged about 70 years

All are resident of village Talakurra, Tahsil and District North Bastar Kanker, Chhattisgarh.

---- Appellants/Claimants

Versus

1. Satteshwari Komre, wife of late Shri Mukesh Komre, aged about 26 years, resident of village Bhaanbeda, Tahsil Bhanupratappur, District North Bastar Kanter, Chhattisgarh, Driver
2. Cheduram Sahu, son of Savantram Sahu, resident of village Kanechoor, Tahsil Bhanupratappur, District North Bastar Kanker, Chhattisgarh, Owner
3. Chola Mandalam General Insurance Company Limited, Hinduja Complex First Floor Shop no. 22, Paras Nagar Chowk, Near Railway Line Raipur, Chhattisgarh, Insurer
4. Branch Manager, ICICI Lombard General Insurance Company Limited, Lal Ganga Shopping Moll, (Commercial Building) Raipur, District Raipur, Chhattisgarh, Insurance Company

---- Respondents

For Appellants : Shri Amit Kumar Sahu, Advocate.
For Respondent No.3 : Shri Sachin Singh Rajput, Advocate.
For Respondent No.4 : Shri Sourabh Sharma, Advocate.

Hon'ble Shri Gautam Chourdiya, J
Judgment On Board

06.05 2019

This appeal is by the claimants against the award dated 27.09.2014 passed by the Additional Motor Accident Claims Tribunal, North Bastar, Kanker, C.G. in Claim Case No.54/12 awarding total compensation of Rs.10,70,680/- with interest @ 7.5% per annum from the date of application till realization, fastening liability on the non-applicants no. 1 to 3 jointly and severally.

02. As per claim petition, on 14.06.2012, deceased Sopsingh Nareti, 54 years, earning Rs.33,537/- per month as Head Master in middle school, died in the motor vehicular accident caused due to rash and negligent driving of Tata ACEHT (Chota Hati) bearing no. CG05-D-0858 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. wife, children and mother of deceased under Section 166 of the Motor Vehicles Act for compensation to the tune of Rs.30,46,256/-, 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 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 only on the following grounds:

(i) that income of the deceased has wrongly been considered by the Tribunal as Rs.15,870/- whereas it should have been Rs.33,537/- as per salary certificate i.e. Ex.P-9.

(ii) that 1/3rd deduction towards personal and living is also against the law and it should have been $\frac{1}{4}$.

(iii) that multiplier of 8 has wrongly been applied and considering the age of the deceased, it should have been 9.

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

(v) 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 no.3 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. Counsel for the respondent no.4 has duly assisted the Court.

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

08. True it is that as per Ex.P-9 i.e. Salary Certificate of the deceased issued by the Block Education Officer, which has been duly proved by the claimants, the gross income of the deceased comes to Rs.33,537/-. However, the Tribunal while determining the compensation to the claimants considered the basic salary of the deceased i.e. Rs.15,870/-. Therefore, the said finding is hereby set aside and the income of the deceased is considered as Rs.33,537/- per month. Further, considering the age of the deceased i.e. 56 years, the dependency, the nature of his job 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.33,537/- per month.	Rs.4,02,444/- per annum
02.	15% of (i) above to be added towards future prospects.	Rs.60,366/- Rs.4,02,444 + Rs.60,366 = Rs.4,62,810/-
03.	1/4 deduction towards personal and living expenses of the deceased	Rs.1,15,702/- Rs.4,62,810 – Rs. 1,15,702 = Rs.3,47,108/-

04.	Multiplier of 9 to be applied	Rs.31,23,972/-
05.	Towards loss of estate, loss of spousal consortium and funeral expenses	Rs.70,000/-
	Total compensation	Rs.31,93,972/-

Since the Tribunal has already awarded Rs.10,70,680/-, after deducting the same from the above amount, the claimants are held entitled for additional compensation of Rs.21,23,292/- with interest @ 7.5% 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