

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 876 of 2015**

1. Nehru Lal S/o Balbhadra Singh Nayak Aged About 47 Years
2. Smt. Nomimati W/o Nehru Lal Nayak Aged About 45 Years

Both are R/o Village Jampali Surri P.O. And Tahsil Pusour, District Raigarh Chhattisgarh Present Address R/o Village Amera, Tahsil Palari, District Baloda Bazar Bhathapara Chhattisgarh.

---Appellants/Claimants**Versus**

1. Sunil Kumar Bajaj S/o Bhagwan Das Bajaj Aged About 31 Years R/o House No. H/20, Near Sbi, Ward No. 14 in The House of Shrichand Badhwani On Rent Ganj Road Navapara, Rajim, District Raipur Chhattisgarh.
2. Rajesh Kumar Bajaj S/o Bhagwan Das Bajaj Aged About 55 Years R/o House No. H/20 Near SBI Ward No. 14, In The House Of Shrichand Badhwani No Rent Ganj Road Navapara Rajim District Raipur Chhattisgarh.
3. United India Insurance Company Ltd. Amar Complex Jeevan Bima Marg, Pandri Near, Railway Crossing Raipur District Raipur Chhattisgarh

---- Respondents

For Appellants	Shri A.D. Kuldeep, Advocate.
For Respondent No.3	Smt. Chitra Shrivastava, Advocate.

Hon'ble Shri Justice Gautam Chourdiya**Judgment on Board****28/01/2019**

This appeal is by the claimants against the award dated 19-12-2014 passed by 3rd Additional Motor Accident Claims Tribunal, Baloda Bazar, District Baloda Bazar Bhatapara, C.G. in Claim Case No.68/2013 awarding total compensation of Rs.4,72,000/- with interest @ 6 per annum from the date of application till realization, fastening liability on the Insurance Company along non-applicants jointly and

severally.

02. As per claim petition, on 03.02.2013 deceased Ramesh Nayak, aged about 18 years, earning Rs.6,000/- per month, working as Vegetable Seller, died in the motor vehicular accident caused due to rash and negligent driving of Maruti Van bearing no.CG04-B-9095 by non-applicant No.1. At the time of accident, offending vehicle was owned by non-applicant no.2 and insured with non-applicant no.3.

03. On claim petition being filed by the claimants i.e. parents of the deceased under Section 166 of the Motor Vehicles Act for compensation to the tune of Rs.12,60,000/-, the Tribunal considering the evidence led by both the parties passed an award as mentioned above in para 1 of this judgment.

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

(i) that income of the deceased has wrongly been considered by the Tribunal as Rs.3,000/-. whereas it should have been Rs.6,000/-

(ii) that multiplier of 10 has wrongly been applied and considering the age of the deceased, it should have been 18.

(iii) that Tribunal has only awarded 6% simple interest whereas it should have been 12%.

(iv) that the amount awarded under the conventional heads also being on the lower side deserves to be enhanced suitably. No amount towards loss of filial and other consortium has been granted.

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 & Magma General Insurance Co. Ltd. Vs. Nanuram @ Chuhru Ram and others in Civil Appeal No.9581/2018 arising out of SLP (Civil) No.3192/2018.

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. As regards income of the deceased, though the claimants have pleaded that the deceased was earning Rs.6,000/- per month as Vegetable Seller but no documentary evidence in support thereof has been adduced. Therefore, in these circumstances, in absence of any proof regarding income, the income of the deceased is considered as Rs.4,500/- per month as per minimum wages at the relevant time. Further, considering the age of the deceased i.e. 18, the dependency i.e. 2, the nature of his job and the decisions of the Hon'ble Supreme Court in *Sarla Verma, Pranay Sethi & Magma General Insurance Co. Ltd.* (supra), the claimants are held entitled for compensation in the following manner:

Sl. No.	Heads	Calculation (in rupees)
01.	Income of the deceased @ Rs.4,500/-	Rs.54,000/- per annum

02.	40% of (i) above to be added towards future prospects.	Rs.21,600/- Rs.54,000 + Rs.21,600 = Rs.75,600/-
03.	1/2 deduction towards personal and living expenses of the deceased	Rs.37,800/-
04.	Multiplier of 18 to be applied	Rs.6,80,400/-
05.	Towards loss of estate and funeral expenses	Rs.30,000/-
06.	Towards loss of filial consortium	Rs.50,000/- (as awarded by the Tribunal)
07.	Towards conveyance during treatment	Rs.10,000/- (as awarded by the Tribunal)
08.	Medical Expenses	Rs.2,21,761/- (as awarded by the Tribunal)
	Total Compensation	Rs.9,92,161/-

Since the Tribunal has already awarded Rs.4,72,000/-, after deducting the same from the above amount, the claimants are held entitled for additional compensation of Rs.5,20,161/- 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

