

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 1178 of 2014**

1. Smt. Rajni Bai, wife of Late Rekhram Patel, aged about 37 years,
2. Koshal Kumar, son of Late Rekhram Patel, aged about 13 years,
3. Kumari Dev Kumari, daughter of Late Rekhram Patel, aged about 11 years

Appellant No. 2 and 3 are being minor through her presented natural guardian mother Smt. Rajni Bai, wife of Late Rekhram Patel

4. Jhaduram, son of Late Maniram Patel, aged about 75 years(as per Hon'ble Court order dated 08.01.2019 deleted)

All are Caste Marar, resident of village Ranva, Post Tarsiwa, Tehsil and district Dhamtari, Chhattisgarh.

---- Appellants/Claimants

Versus

1. Shiv Narayan, son of Kejuram Yadav, aged about 37 years, resident of village Chhote Karele Police Station Magarload, District Dhamtari, Chhattisgarh,
2. Shriee Bala Ji Rice Mill Bhothali Road Kurud, Dhamtari, through Pramod Saheb, son of Late Bharat Saheb, aged about 33 years, resident of Hatkeshwar Dhamtari, Tehsil and District Dhamtari, Chhattisgarh,
3. Branch Manager, The Oriental Insurance Company Limited M.B. Trade Centre, Second Floor Ghadi Chowk Dhamtari, Chhattisgarh
4. Lokesh Kumar, son of Lakhanlal, aged about 26 years, resident of Village Dumarpani, Police Station Narharpur District- Kanker, Chhattisgarh,
5. Ganesh Mal Nahar Care of Manish Travels G.E. Road, Durg, New Bus Stand, Durg, Tehsil and District- Durg, Chhattisgarh
6. Branch Manager, The New India Insurance Company Limited, Divisional Office No. 02, 1st Floor Jeevan Bima Nigam Bhawan, Commercial Complex Pandari Raipur, District- Raipur, Chhattisgarh.

---- Respondents

For Appellants	:	Shri Amit K. Sahu, Advocate.
For Respondent No.3	:	Shri Pankaj Agrawal, Advocate.
For Respondent No. 6	:	Shri Qamrul Aziz, Advocate.

Hon'ble Shri Gautam Chourdiya, J**Judgment On Board****21.01.2019**

This appeal is by the claimants/wife, children & father of the deceased against the award dated 10.10.2014, passed by Additional Motor Accident Claims Tribunal, Dhamtari in Claim Case No.110/2014 awarding total compensation of Rs. 4,35,000/- with interest @ 6% per annum from the date of application till realization, fastening 50% liability on non-applicant Nos. 1 to 3 jointly and severally and remaining 50% liability upon non applicant Nos. 4 to 6 to satisfy the said award. The offending vehicle (Bus bearing registration No. CG07E/9990) owned by Non-applicant No. 5 and insured with non applicant No. 6 & offending vehicle (truck bearing registration No. CG05D/1205) owned by Non-applicant No. 2 and insured with non-applicant No. 3.

02. As per claim petition, on 21.06.2013, deceased Rekhram Patel aged about 40 years, earning Rs.200/- per day as agriculture labour & vegetable vendor, was travelling in a bus bearing registration No. CG07E/9990 coming to Dhamtari from Kurud, a truck bearing registration No. CG05D/1205 dashed the aforesaid bus, due to head on collision accident occurred and Rekhram Patel sustained grievous injuries and succumbed to these injuries. The learned Tribunal given finding that the accident occurred due to negligent part of both the driver of the vehicle. Therefore, liability fastened upon both the driver/owner/insurer of the offending vehicle to the extent of 50-50%.

03. On claim petition being filed by the claimants 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 submits that at the time of accident, the deceased was working as agriculture labour & vegetable vendor and used to earn Rs. 200/-per day but the income of the deceased has wrongly been considered by the Tribunal as Rs.3,000/- whereas it should have been Rs.6,000/-. He also submits that no amount towards future prospect has been granted to the claimants and the amount awarded under the conventional heads also being on the lower side deserves to be enhanced suitably. No amount towards loss of filial 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 Nos. 3 & 6/insurance companies 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, claimant-Rajni Bai stated in para 4 of her statement that the deceased was working as agriculture labour & vegetable vendor and used to earn Rs. 150-200/- per day but no documentary or oral evidence in support thereof has been adduced. Therefore, in these circumstances, in absence of any oral & documentary proof regarding income, the income of the deceased canbe safely considered as Rs.4,500/- per month as per minimum

wages at the relevant time. Further, considering the age of the deceased i.e. 40years (as per merger intimation Ex. A/7 & PM report Ex. A/8), 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.4,500 per month.	Rs. 4500x12= Rs. 54,000 per annum
02.	25% of (1) above to be added towards future prospects.	Rs. 54000+ 13500= Rs. 67,500/-
03.	After 1/4 th deduction towards personal and living expenses of the deceased	Rs. 67,500- 16875= Rs. 50,625/-
04.	Multiplier of 15 to be applied	Rs. 7,59,375/-
05.	Towards loss of estate, loss of consortium and funeral expenses	Rs. 70,000/-
06	Total compensation	Rs. 8,29,375/-

Since the Tribunal has already awarded Rs.4,35,000/-, after deducting the same from the above amount, the claimants are held entitled for additional compensation of Rs.3,94,375/- 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