

AFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 92 of 2014**

1. Bhushan Lal Dongare S/o Punau Ram Aged About 35 Years
2. Smt. Rakhi Bai W/o Bhushan Lal Dongare Aged About 33 Years

Both are R/o village Mainpur, P.O. Mainpur, Tah. Gariyaband, Distt. Raipur C.G.,

----Appellants

Versus

1. Mohan @ Mahendra Gond S/o Bajar Singh R/o Bajar Chowk, Mainpur, Tah. Gariyaband, Distt. Raipur C.G.
2. Smt. Tahira Begum W/o Kamal Ahamed R/o Keshkal, Distt. Bastar C.G.
3. The Oriental Insurance Company Ltd. in Front Of Adarsh Bal Mandir, Behind the Amar Talkies, Main Road, Dhamtari C.G.

---- Respondents

For Appellants	Shri G.V.K. Rao, Advocate.
For Respondent Nos. 1 & 2	None.
For Respondent No.3	Shri Raj Awasthi, Advocate.

Hon'ble Shri Justice Gautam Chourdiya
Judgment on Board

05/02/2019

This appeal is by the claimants against the award dated 28.10.2013 passed by Additional Motor Accident Claims Tribunal, Gariyaband, District Gariyaband, C.G. in Claim Case No.07/2008 awarding total compensation of Rs.2,50,000/- with interest @ 7.5% per annum from the date of application till realization, fastening liability on the non-applicants no.1 & 2 and exonerated insurance company.

02. As per claim petition, on 29.10.2007 deceased Daddu @ Deepak

Dongare, aged about 14 years, student, died in the motor vehicular accident caused due to rash and negligent driving of Jeep bearing no. CG05-ZA-2060 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. parents of deceased under Section 166 of the Motor Vehicles Act for compensation to the tune of Rs.21,00,000/-, 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/claimants submits that he has raised various grounds in his memo of appeal, however, he is not pressing all those grounds and is assailing the award on the following grounds:

(i) that income of the deceased has wrongly been considered by the Tribunal as Rs.15,000/- per annum which is on lower side and needs to be enhanced.

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

(iii) that 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. Considering the facts and circumstances of the case, particularly the fact that it is not disputed by both the parties that deceased Daddu @ Deepak Dongare was a minor aged about 14 years on the date of accident and had not started earning, had he been alive, he would have certainly contributed substantially to the family of appellants by working hard, therefore, in the opinion of this Court, ends of the justice would be served, if the income of the deceased is considered as Rs.3,000/- per month i.e. Rs.36,000/- per annum on notional basis. Further, considering the age of the deceased i.e. 14, the dependency, 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.3,000/- per month.	Rs.36,000/- per annum
02.	40% of (i) above to be added towards	Rs.14,400/-

	future prospects.	Rs.36,000 + Rs.14,400 = Rs.50,400/-
03.	1/2 deduction towards personal and living expenses of the deceased	Rs.25,200/-
04.	Multiplier of 15 to be applied	Rs.3,78,000/-
05.	Towards loss of estate and funeral expenses	Rs.30,000/-
06.	Towards loss of filial consortium to claimants @ Rs.15,000/- each	Rs.30,000/-
	Total Compensation	Rs.4,38,000/-

Since the Tribunal has already awarded Rs.2,50,000/-, after deducting the same from the above amount, the claimants are held entitled for additional compensation of Rs.1,88,000/- 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