

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 1089 of 2019**

1. Smt. Neera Bai wife of late Chhabilal Nishad, aged about 33 years,
2. Kumari Radhika son of late Chhabilal Nishad, aged about 13 years,
3. Ku. Kalyani Nishad son of late Chhabilal Nishad, aged about 10 years,
4. Ritesh Nishad son of late Chhabilal Nishad, aged about 8 years,
5. Antram Nishad son of late Sadharam Nishad, aged about 75 years,
6. Smt. Sukhmat Bai wife of Shri Antram Nishad, aged about 70 years,

Appellants No.2 to 4 are minor, represented through mother Neera Bai resident of House No. 155 Mudapar, Nishad Mohalla Bypass Road, Korba Tahsil & District- Korba (C.G.).

---- Appellants/claimants**Versus**

1. Padman Lal Shriwas son of Purushottam Lal Shriwas, aged about 37 years, resident of Mudapar, Nishad Mohalla Bypass Road, Korba, Tahsil & District- Korba (C.G.) (Vehicle Driver),
2. Umashankar Sahu son of Baijnath Prasad, aged about 37 years, resident of Sharda Vihar, near Venus High School, Korba, Tahsil & District- Korba (C.G.) (Vehicle Owner).
3. The New India Insurance Company Limited, Through the Branch Manager, The New India Insurance Company limited, Office-SADA Complex, Taxi Stand, T.P. Nagar, Korba, District- Korba (C.G.) (Insurance Company).

---- Respondents

For Appellants	:	Shri Aditiya Khare, Advocate.
For Respondents	:	None.

Hon'ble Shri Gautam Chourdiya, J
Judgment On Board

26/06/2019

(1) Heard on IA No. 1, application for condonation of 69 days of delay in filing the MAC.

(2) For the reason mentioned in the application, which is duly supported by the affidavit, the same is allowed and delay in filing the MAC is condoned.

(3) Also heard on admission.

(4) This appeal is filed under Section 173 of the Motor Vehicles Act, 1988 by the claimants against the award dated 06.12.2018, passed by Motor Accident Claims Tribunal, Korba (CG) in Claim Case No.65/2017 awarding total compensation of Rs.14,81,200/- with interest @ 7% per annum from the date of application till realization, fastening liability on non-applicant No.3/insurance company.

(05) As per claim petition, on 24/10/2014 deceased- Chhabilal Nishad was going to Korba To Damaudahra sitting in Jaylo Vehicle No. C.G.-12-AG/3812, which was being driven by respondent No. 1, when the said vehicle reached near Urga Bhaisma Road, it got turned turtle due to rash and negligent driving by non-applicant No. 1, as a result of which, Chhabilal Nishad sustained grievous multiple injuries and died during treatment. The offending vehicle was owned by non-applicant No.2 and insured with non-applicant No.3.

(6) On claim petition being filed by the claimants, wife, children & parents of the deceased, under Section 166 of the Motor Vehicles Act, the Tribunal considering the evidence led by the parties passed an award as mentioned above.

(7) Learned counsel for the appellants/claimants submits that the Tribunal has not properly assessed the income of the deceased and the amount awarded under the conventional heads is also on the lower side. The learned Tribunal ought to have applied multiplier of 16 instead of 15. Therefore, the amount of compensation is required to be enhanced suitably.

(8) Heard learned counsel for the appellant and perused the impugned award.

(9) As regards income of the deceased, though the claimants have pleaded that the deceased was earning more than Rs.7,000/- per month by hotel business 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 has been considered as Rs.7,000/- per month as skilled labour by the Tribunal. The Tribunal further considering the age of the deceased as 37 years on the basis of documents available on record, the dependency, the nature of his job, keeping in view the decisions of the Hon'ble Supreme Court in **Smt. Sarla Verma and others VS. Delhi Transport Corporation and another, (2009) 6 SCC 121**, applied multiplier of 15, deducted 1/5th towards personal and living expenses of the deceased and also awarded 40% towards future prospects. The Tribunal further awarded Rs.15,000/- for funeral expenses, Rs. 40,000/- towards loss of consortium and Rs.15,000/- towards loss of estate. Considering the facts and circumstances of the case, the nature and quality of evidence adduced by the claimants as reflected from the impugned judgment and not disputed by the appellants/claimants' counsel, the amount of Rs.14,81,200/- awarded by the Tribunal as compensation with interest @ 7% per annum from the date of application till realization, cannot be said to be inadequate or on the lower side. The said assessment appears to be just and proper, in conformity with the decisions of the Hon'ble Supreme Court in the matters of *Sarla Verma* (supra), **National Insurance Co. Ltd. Vs. Pranay Sethi, (2017) 16 SCC 680**. Therefore, there is no need to interfere with the award impugned.

(10) Resultantly, the appeal being without any substance is liable to be dismissed at the admission stage itself and is, accordingly, dismissed.

Sd/-

(Gautam Chourdiya)
Judge