

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 572 of 2014**

1. Ramkali Khande W/o Late Rajendra Kumar, aged about 24 years, by caste Satnami
2. Rajeshwari D/o Rajendra Kumar Khande, aged about 05 years, by caste Satnami
3. Dhaneshwari D/o Rajendra Kumar Khande, aged about 05 years, by caste Satnami
4. Mukesh Kumar S/o Late Rajendra Kumar Khande, aged about 02 years, by Caste Satnami
5. Rupesh Kumar S/o Late Rajendra Kumar Khande, aged about 03 years,

Applicant No. 2 to 5 are minor through legal representative mother Ramkali W/o Late Rajendra Kumar Khande,

6. Ubel Chand Khande S/o Late Kapil Chand Khande, aged about 80 years, by Caste Satnami
7. Meghaiya Bai W/o Ubeel Chand Khande, aged about 75 years,

All are resident of village Tingipur Police Station Fasterpur Mungeli, Tahsil Mungeli, District- Bilaspur (C.G.).

---- Appellants/Claimants

Versus

1. Baldau Singh Maravi S/o Meshram Maravi, aged about 40 years, R/o Village Mathpara, Ward No. 8, Kawardha, District Kabirdham (C.G.)(Driver of alleged offending vehicle bearing registration No. C.G.-09B/5014)
2. Rajendra Singh Thakur S/o Bhuwan Singh Thakur, R/o Radha Krishna Ward Kawardha District- Kabirdham (C.G.)

(Owner of alleged offending vehicle bearing registration No. C.G.-09B/5014)
3. Reliance General Insurance Company Ravi Bhawan Jai Stambh Chowk Raipur, District- Raipur (C.G.).

---- Respondents

For Appellants	:	Shri C. K. Sahu, Advocate.
For Respondent No.1 & 2	:	Shri D. C. Verma, Advocate.
For Respondent No.3	:	Shri Saurabh Sharma, Advocate.

Hon'ble Shri Gautam Chourdiya, J

Judgment On Board

06.02. 2019

This appeal is by the claimants against the award dated 19.12.2013, passed by Additional Motor Accident Claims Tribunal Mungeli, (C.G.) in Claim Case No.147/2011 awarding total compensation of Rs. 4,18,000/- with simple interest @ 6% per annum from the date of application till realization, fastening liability on the non-applicant No. 3.

02. As per claim petition, on 01.06.2010 deceased- Rajendra Kumar, aged about 24 years, earning Rs.300 to 400/- per day by work of contract-ship (Thekedari), died in the motor vehicle accident caused due to rash and negligent driving of vehicle bearing registration No. CG09B/5014 by non-applicant No.1- Baldau Singh Maravi.

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 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.3,500/- as per minimum wages at the relevant time.

(ii) that 1/3rd deduction towards personal and living is also against the law and it should have been 1/5th.

(iii) that multiplier of 17 has wrongly been applied and considering the age of the deceased i.e. 24 to 25 years, it should have been 18.

(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. Learned counsel for the respondent Nos. 1 & 2 has duly assisted the Court.

06. 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.

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

08. As regards income of the deceased is concerned, the claimants have pleaded that the deceased was earning Rs.300 to 400/- per day as contract-ship (Thekedari) but no documentary or oral 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.3,500/- per month as per minimum wages at the relevant time. Further, considering the age of the deceased i.e. 25 years, 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)
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01.	Income of the deceased @ Rs.35,00 per month.	Rs. 42,000/- per annum
02.	40% of (i) above to be added towards future prospects.	Rs. 42,000+16,800= Rs. 58,800/-
03.	1/5 th deduction towards personal and living expenses of the deceased	Rs. 58,800-11760= Rs. 47,040/-
04.	Multiplier of 18 to be applied	Rs. 8,46,720/-
05.	Towards loss of estate, loss of consortium and funeral expenses	Rs. 70,000/-
	Total compensation	Rs. 9,16,720/-

Since the Tribunal has already awarded Rs.4,18,000/-, after deducting the same from the above amount, the claimants are held entitled for additional compensation of Rs.4,98,720/- with interest @ 6% per annum from the date of application till realization. However, rest of the conditions of the impugned award shall remain intact. It is directed that the Insurance Company shall pay the amount of compensation to the claimants along with interest within a period of two months from the date of this order.

09. In the result, the appeal is allowed in part with modification in the impugned award to the above extent. .

Sd/-

(Gautam Chourdiya)

Judge