

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 997 of 2018**

1. Smt. Pramila Sahu, Aged 33 years, Wd/o Late Punarad Sahu, Wd/o Late. Punarad Sahu
2. Ku. Bhuvneshwari, Aged 16 years,
3. Tameshwar Sahu, Age, 13 years,
4. Takeshwar Sahu, Age, 10 years

Applicants No. 2 -4, S/o – Late Punarad Sahu

Applicants No. 2 & 4 – through natural guardian mother namely Smt. Parmila Sahu, Wd/o – Late Punarad Sahu)

5. Johrik Sahu, Age 65 years, S/o Jairam Sahu
6. Smt. Ganeshia Bai, Age 61 years, W/o Shri Johrik Sahu

All R/o – Near Hospital, Abhanpur, Distt. Raipur (C.G.)

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

1. Rekhraj Sahu, Age 27 years, S/o Guharam Sahu, R/o Village-Sejbahar Thana- Mujgahan, Distt. Raipur (C.G.) (Non-applicant No.1 Driver).
2. Shakur Mohammad, S/o Sunhar Mohommad, R/o Garib Nawaj Wtach Center, Kalibadi, Raipur, District – Raipur (C.G.) (Non Applicant No. 2 Owner).
3. The New India Insurance Company Ltd., Mandal Office -3, Bजारंग Market, R.D.A. Building, G.E. Road, Tehsil – Raipur, Distt- Raipur (C.G.) (Non Applicant No. 3).

---- Respondents

For Appellants	: Mr. Sanjay Agrawal, Advocate.
For Respondent No.3	: Mr. Anil Gulati, Advocate

Hon'ble Shri Justice Gautam Chourdiya**Judgment on Board**

23.01.2019

1. This is claimants' appeal for enhancement of compensation awarded by 6th Addl. Motor Accident Claims Tribunal, Raipur (for short 'the Tribunal') in claim case No. 562/2017 vide award dated 14.03.2018.

2. As against compensation of Rs. 32,60,000/- claimed by unfortunate parent wife and children of deceased Punarad Sahu by filing claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short 'MV Act') for the death of Punarad Sahu on 05.05.2017 in the motor accident occurred on 05.05.2017, the Tribunal has awarded a total sum of Rs. 12,54,000/- as compensation along with interest @ 7.5 % per annum from the date of filing of claim petition till its actual payment. The vehicle was driven by Non-applicant No. 1, owned by Non-applicant No. 2 and insured with non-applicant No. 3.

3. Facts of the case, as per claim petition are that on 05.05.2017 deceased namely Punarad Sahu was coming in Mini Bus bearing registration No. C.G.04/E/2897 from Champa to Abhanpur and when reached near Gram Kohroda, Masturi Road at that time respondent No. 1- Rekhraj Sahu; by rash and negligent driving, dashed the another vehicle i.e. Hywa, which was standing at the corner of road in stationary condition, as a result of which Punarad Sahu sustained grievous injuries and died during the course of treatment in the Hospital. The learned Tribunal fastening liability upon the respondent jointly and severely; and assessed and awarded aforesaid sum of compensation to the claimants.

4. Learned counsel for the appellants/claimants submits that the

that income of the deceased has wrongly been considered by the Tribunal as Rs. 6,000/- per month whereas it should have been Rs. 20,000/- per month as at the relevant time deceased was working as trader of fruits and vegetable and he was earning Rs. 20,000/- per month and, therefore, the amount of compensation should be enhanced suitably. He further submits that no amount towards future prospect has been granted to the claimants and further 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. On the other hand, learned counsel for the respondent No. 3/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. It is an admitted position that at the time of accident the deceased, aged about 38 years, working as trader of Fruits and vegetables, therefore, looking to the all aspect of the matter and minimum wages as skill person at the relevant time Rs. 6,500/- per month income can be safely considered. Further in view of judgment of the Supreme Court in **Pranay Sethy** (supra), 40% of the yearly income of the deceased employee should be added for the purpose of computation of compensation on the enhanced income of the deceased. Further

looking to the age of the deceased i.e. 38 years, dependency and apex Court Judgment in Sarla Verma (Supra), claimants are held entitled for compensation in the following manner:

Sl.No.	Heads	Calculation (in rupees)
1.	Income of the deceased	Rs.6,500/- per month i.e. Rs.78,000/- per annum
2.	40% of (1) above to be added towards future prospects.	Rs.78,000/- +Rs.31,200/- = Rs.1,09,200/-
3.	1/4 th deduction towards personal and living expenses of the deceased	Rs.1,09,200/- -Rs.27,300/- = Rs. 81,900/-
4.	Multiplier of 15 to be applied (as applied by the Tribunal)	Rs.81,900 x 15= Rs.12,28,500/-
5.	Towards funeral expenses, loss of estate and consortium	Rs.70,000/-
6.	Towards love and affection to the claimants(as awarded by the Tribunal)	Rs.50,000/-
7.	Total compensation.	Rs.13,48,500/-

Since the Tribunal has already awarded Rs.12,54,000/- after deducting the same from the above amount, the claimants are held entitled for additional compensation of Rs.94,500/- 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.

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

Sd/-

(Gautam Chourdiya)
Judge

