

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 472 of 2017**

1. Smt. Shashi Khare Wd/o Sh. Chandreika Prasad Khare, Aged About 56 Years
2. Chandreika Prasad Khare S/o Late Vishwanath Pratap Khare, Aged About 65 Years
3. Ku. Neha Khare D/o Chandrika Prasad Khare, Aged About 30 Years

All R/o House No. 18/2368, In Front Of T.V.Tower, Shankar Nager P.S.
Mowa, Raipur, Tahsil And District Raipur, Chhattisgarh.

----Appellants/Claimants**Versus**

1. Balaji Purshottam S/o Dr.K.U.Purshottam, Occupation Car Driver, R/o L.I.G.29 Sector 1, Shankar Nager Raipur, Tahsil And Distt. Raipur, Chhattisgarh. Driver Of The Offending Vehicle Car Bearing No. C.G.04 H D 5532, Chhattisgarh
2. Rajkumar Purshottam S/o Dr. K.U.Purshottam, Occupation Car Owner, R/o L.I.G.29 Sector 1 Shankar Nagar, Raipur, Tahsil And District Raipur, Chhattisgarh. Owner Of The Offending Vehicle Car Bearing No. C.G.04 H D 5532
3. The New India Insurance Company Limited, Through Branch Manager, Branch Office Kachehary Chowk Jail Road Raipur Tahsil And Distt. Raipur, Chhattisgarh. Insurer Of The Offending Vehicle Car Bearing No. C.G.04 H D 5532.

---- Respondents

For Appellants	:	Shri Vikas Pandey Advocate on behalf of Shri A.L. Singroul, Advocate.
For Respondent Nos.1 & 2	:	Shri Abhishek Deshmukh, Advocate.
For Respondent No.3	:	Shri Samir Singh, Advocate.

Hon'ble Shri Gautam Chourdiya, J**Judgment On Board****17.01.2019**

1. Heard on admission.
2. This appeal is by the claimants under Section 173 of the Motor Vehicles Act, 1988 against the award dated 28.01.2017 passed by 3rd Motor Accident Claims Tribunal, Raipur, District Raipur, C.G. in Claim Case No.120/2013 awarding total compensation of Rs. 10,43,000/- with interest @ 7.5 from the date of application till its realization, fastening the liability on Insurance Company along with non-applicants.
3. As per claim petition, on 10.08.2012 deceased Manas Khare, aged about 27 years Unmarried Bachelor, earning Rs.17,000/- per month working as Chemical Engineer, died in the motor vehicle accident caused due to rash and negligent driving of car bearing no.CG04/HD/5532 by non-applicant No.1. At the time of accident, offending vehicle was owned by non-applicant no.2 and insured with non-applicant no.3.
4. On claim petition being filed by the claimants i.e. parents and unmarried sister of the deceased under Section 166 of the Motor Vehicles Act for compensation to the tune of Rs.43,50,000/-, the Tribunal considering the evidence led by the parties passed an award as mentioned above in para 1 of this judgment.
5. Learned counsel for the appellant/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 interest on the compensation should have been awarded 9% per annum but the Tribunal awarded only

7.5%. He also submits that Tribunal has wrongly deducted $\frac{1}{2}$ towards personal and living expenses whereas it should have been $\frac{1}{3}$. Therefore, the amount of compensation is required to be enhanced suitably.

6. On the other hand, learned counsel for the respondents 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.
7. Heard learned counsel for the parties and perused the impugned award.
8. As regards income of the deceased, though the claimants have pleaded that the deceased was earning Rs.17,000/- per month as a Chemical Engineer 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.6,000/- per month as per minimum wages at the relevant time by the Tribunal. The Tribunal considering the age of the deceased as 29 years on the basis of documents available on record, the dependency, keeping in view the decision of Hon'ble Supreme Court in ***Smt. Sarla Verma and others Vs. Delhi Transport Corporation and another, (2009) 6 SCC 121***, applied multiplier of 17, deducted $\frac{1}{2}$ towards personal and living expenses of the deceased and also awarded 50% towards future prospects. The Tribunal further awarded Rs.1,00,000/- towards love and affection, Rs.25,000/- towards

transportation, funeral and last rites expenses. Considering the facts and circumstances of the case, the nature and quality of evidence adduced by the claimants as reflected from the impugned award and not disputed by the appellants/claimants' counsel, the amount of Rs.10,43,000/- awarded by the Tribunal as compensation with interest @ 7.5% 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 and 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***. Therefore, there is no need to interfere with the award impugned.

9. 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

Akhilesh