

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 1043 of 2017**

1. Smt. Anju Gadhewal W/o Late Laxmi Prasad Gadhewal aged about 26
2. Manish Kumar Gadhewal S/o Late Laxmi Prasad Gadhewal aged about 14
3. Ku. Diksha Gadhewal D/o Late Laxmi Prasad Gadhewal aged about 12 years
4. Ku. Disha Gadhewal D/o Late Laxmi Prasad Gadhewal aged about 10 years
5. Ku. Anisha Gadhewal D/o Late Laxmi Prasad Gadhewal aged about 04 years

Appellant No. 2 to 6 is minor through his legal guardian Mother smt. Anju Gadhewal (Appellant No. -1) all R/o Village- Ghanapar Ghootku Thana- Koni presently Address R/o- Village Janji Thana- Seepat District- Bilaspur (C.G.).

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

1. Gopal Chouhan S/o Tribhuwan Chouhan about 25 years. R/o- Village- Birkona Atal Chouk Thana Koni Distt.- Bilasppur (C.G.). (Driver of the offending vehicle Maruti Van No. C.G.10/F/9536).
2. Shabir Ansari S/o Moh. Shafi Ansari about 27 years. R/o Village Godkhani Tahsil Lormi Distt.- Mungeli (C.G.) (Owner of the offending Vehicle Maruti Van No. C.G.10/F/9536).
3. Branch Manager, Shri Ram General Insurance Company Ltd., Branch Office E8 Ricko Industrial Area, Sitapur Jaipur Rajasthan- 302022 (Bharat)

(Insurer of the offending vehicle Maruti Van No. C.G. 10/F/9536).

---- Respondents

For Appellants	:	Shri A. L. Singrol, Advocate.
For Respondent No.3	:	Shri Amrito Das, Advocate.

Hon'ble Shri Gautam Chourdiya, J**Judgment On Board****07.02. 2019**

This appeal is by the claimants against the award dated 30.06.2017, passed by 3rd Additional Motor Accident Claims Tribunal, Bilaspur in Claim Case No.377/2016 awarding total compensation of 7,28,000/- with 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 05.04.2016, deceased Laxmi Prasad Gadhewal, aged about 32 years, earning Rs.10,000/- per month as mason, died in the motor vehicle accident caused due to rash and negligent driving of vehicle (Maruti) bearing registration No. CG10-F/9536 by non-applicant No.1- Gopal Chouhan. The offending vehicle was owned by Non-applicant No. 2- Shabir Ansari and insured with Non-applicant No. 3- Shri Ram General Insurance Company.

03. On claim petition being filed by the claimants/wife & children of the deceased- Laxmi Prasad Gadhewal 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. 4,500/- whereas it should have been Rs.7,000/- as skilled labour as per minimum wages at the relevant time.

(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. 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.***

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. As regards income of the deceased, though the claimants have pleaded that the deceased was earning Rs.10,000/- per month as mason 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 is considered as Rs.6,000/- per month as per minimum wages at the relevant time. Further, considering the age of the deceased, the dependency, the nature of his job and the decisions of the Hon'ble Supreme Court in *Sarla Verma, Pranay Sethi*, (supra), the claimants are held entitled for compensation in the following manner:

Sl. No.	Heads	Calculation (in rupees)
01.	Income of the deceased @ Rs.6,000/- per month.	Rs. 6,000x12= Rs. 72,000/- per annum
02.	40% of (i) above to be added towards future prospects.	Rs. 72,000+28800= Rs. 1,00800/-
03.	1/4th deduction towards personal and living expenses of the deceased	Rs. 1,00800- 25,200= Rs. 75,600/-
04.	Multiplier of 16 to be applied	Rs. 75,600x16= Rs. 12,09,600/-
05.	Towards loss of estate, loss of	Rs. 70,000/-

	consortium and funeral expenses	
	Total compensation	Rs. 1279,600/-

Since the Tribunal has already awarded Rs.7,28,000/-, after deducting the same from the above amount, the claimants are held entitled for additional compensation of Rs.5,51,600/- 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 enhanced amount of compensation of Rs. 5,51,600 /- to the claimants along with interest within a period of two months from the order.

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

Sd/-
(Gautam Chourdiya)
Judge