

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 300 of 2017**

1. Smt. Meena Sahu, aged about 40 years, W/o Santosh Sahu, Caste Teli,
2. Pradeep Kumar S/o Santosh Sahu, aged about 16 years, Caste Teli

appellant No. 2 being minor represented through mother Smt. Meena Sahu (Appellant No. 1 W/o Santosh Sahu) both R/o Tikripara, Ward No. 03, Takhatpur, Tahsil Takhatpur, District-Bilaspur (C.G.).

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

1. Dulkalharam Yadav, aged about 59 years, S/o Late Ramadhin Yadav, R/o Takhatpur, Tikripara, P. S. & Tahsil Takhatpur, District-Bilaspur (C.G.).
2. Santosh Kumar Sahu, aged about 42 years, S/o Late Latelram Sahu, Barela Ward No. 15, Mainroad Mungeli, District- Mungeli (C.G.).
3. Bajaj Allianz General Insurance Company Ltd., Through : Branch Manager, Branch Office, Shiv Mohan Bhawan, Vidhan Sabha Marg, Pandri, Raipur (C.G.)

---- Respondents

For Appellants	: Shri A. L. Singrol, Advocate.
For Respondent No.3	: Shri Abhishek Sinha, Advocate with Shri Amit Buxy, Advocate.

Hon'ble Shri Gautam Chourdiya, J**Judgment On Board****10.01.2019**

This appeal is by the claimants against the award 24.12.2016,

passed by 5th Additional Motor Accident Claims Tribunal, Bilaspur (C.G.) in Claim Case No.487/2015 awarding total compensation of 2,72,000/- with a direction to respondent No. 3/Insurance Company to deposit the same with the Tribunal within a period of 60 days, failure in doing so shall lead to imposition of interest @ 6% per annum from the date of application till its realization, fastening liability on the non-applicant No. 3/Insurance Company.

02. As per claim petition, on 23.05.2015 deceased Pravesh Sahu, 20 years, earning Rs.6,000/- per month as fruit seller, died in the motor vehicle accident caused due to rash and negligent driving of vehicle (car) bearing registration No. CG28/6190 by non-applicant No.1-Dukulharam.

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.3000/- whereas it should have been Rs. 6,000/-per month as per minimum wages applicable at the relevant time i.e. in the year of 2015.

(ii) that multiplier of 14 has wrongly been applied and considering the age of the deceased i.e. 20 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. No amount towards filial 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, 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.

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, as per evidence adduced by applicant witness No. 1-Meena sahu & applicant witness No. 2-Sanjay Dhurve who was stated that the deceased was working as fruit seller and the claimants have pleaded and proved this fact that the deceased was earning Rs.6,000/- per month as fruit seller, therefore, the income of the deceased can be safely considered as Rs. 6,000/ per month as per uncontroverted evidence and minimum wages at the relevant time. Sofar as the age of the deceased is concerned, as per Merg intimation ExP/3, inquest report Ex. P/6 and postmortem report Ex. P/7 it is established that at the time of accident the deceased was the age group of 18 to 20, therefore, The learned Tribunal has erred in considering the multiplier on the basis of age of the mother of the deceased for the purpose of computation of compensation whereas in view of Judgment of the Apex Court in **Smt. Sarla Verma(Supra)** it should have been considered according to the age of the deceased, therefore looking to the age of the deceased i.e. 20 years multiplier of 18 would be appropriate. Further, considering the dependency, the nature of his job and the decisions of the Hon'ble Supreme Court in afore-cited judgments 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.6,000/- per month.	6,000x12= 72,000/- per annum
02.	40% of above to be added towards future prospects.	72000+28800= Rs. 100,800/-
03.	50% deduction towards personal and living expenses of the deceased	Rs. 50,400/-
04.	Multiplier of 18 to be applied	Rs. 907,200/-
05.	Towards loss of estate, filial and funeral expenses	Rs. 40,000/-
	Total compensation	Rs. 9,47,200/-

08. Since the Tribunal has already awarded Rs. 2,72,000, after deducting the same from the above amount, the claimants are held entitled for additional compensation of Rs.6,72000/- with interest @ 6% per annum from the date of application till realization. However, rest of the conditions of the impugned award shall remain intact.

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

Sd/-

(Gautam Chourdiya)
Judge

Amita