

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 130 of 2014**

1. Smt.Keshar Bai W/o B.R. Soni Aged About 46 Years
2. Shivam Soni S/o Late B.R. Soni Aged About 28 Years
3. Dilip Soni S/o Late B.R. Soni Aged About 26 Years
4. Pawan Soni S/o Late B.R. Soni Aged About 23 Years

All are R/o Quarter No. 4, I Avenue C. Sector-6, Bhilai, P.S. Kotwali Bhilai Nagar, Distt. Durg C.G.

---Appellants/Claimants**Versus**

1. Durgesh S/o Charan Singh Aged About 23 Years R/o Pardi, Behind Naveen Nagar, Barrier, Nagpur, P.S. Kamthi, Distt. Nagpur Maharashtra, Maharashtra
2. Shabbir Khan S/o Dilawar Khan R/o Through- Raipur Gujrat Road Line, Bhandara Road, Pardi, Distt. Nagpur Maharashtra, District : Nagpur, Maharashtra
3. The Branch Manager S/o United India Insurance Company Ltd., In Front Of Mehta Petrol Pump Medical Square Nagpur, Permanent Address- Tara Complex, Power House, Bhilai, Distt. Durg C.G.

---- Respondents

For Appellant	Shri C.R. Sahu, Advocate.
For Respondent No.3	Smt. Chitra Shrivastava, Advocate.

Hon'ble Shri Justice Gautam Chourdiya**Order On Board****08.01.2019**

1. This appeal is by the claimants against the award dated 27.09.2012 passed by the 1st Additional Motor Accident Claims Tribunal, Durg, District Durg, C.G. in Claim Case No.144/2011 awarding total compensation of Rs.1,90,000/- with interest @ 6% per annum from the date of application till realization, fastening liability on the

Insurance Company.

2. As per claim petition, on 08.06.2010 deceased Manoj Soni, aged about 19 years, earning Rs.10,000/- per month working as Screen Printing & Advertising, died in the motor vehicular accident caused due to rash and negligent driving of Truck bearing registration no. CG07/C/2979 by non-applicant No.1.
3. 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.
4. 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/- per month, whereas it should have been Rs.10,000/- per month.
 - (ii) that Tribunal wrongly deducted 50% towards personal and living is also against the law.
 - (iii) that multiplier of 10 has wrongly been applied and considering the age of the deceased, it should have been 17.
 - (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, 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, though the claimants have pleaded that the deceased was earning Rs.10,000/- per month working as Screen Printing & Advertising 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, 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:

S.I. No.	Heads	Calculation (in rupees
1.	Income of the deceased	Rs.3,500/- x 12 = Rs.42,000/- per annum
2.	40% towards future prospects.	Rs.16,800/- Rs.42,000 + Rs.16,800/- = Rs.58,800/-
3.	1/2 deduction towards personal and living expenses of the deceased	Rs.29,400/-

4.	Multiplier of 18 to be applied	Rs.5,29,200/-
5.	Towards conventional heads (loss of funeral and loss of estate)	Rs.30,000/-
6.	Towards Filial Consortium Rs.10,000/- each	Rs.40,000/-
	Total Compensation	Rs.5,99,200/-

Since the Tribunal has already awarded Rs.1,90,000/-, after deducting the same from the above amount, the claimants are held entitled for additional compensation of Rs.4,79,200/- with interest @ 6% per annum from the date of application till realization. However, rest of the conditions of the impugned award shall remain intact.

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

Sd/-
(Gautam Chourdiya)
Judge

Akhilesh