

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 1110 of 2014**

1. Smt. Dhaneshwari Sahu W/o Late Harishankar Sahu Aged About 35 Years
2. Pradeep Kumar Sahu S/o Late Harishankar Sahu Aged About 19 Years
3. Sohan Lal Sahu S/o Late Harishankar Sahu
4. Ku. Jharna Sahu D/o Late Harishankar Sahu Aged About 11 Years

Appellant nos. 3 & 4 Minor, Through- Mother Smt. Dhaneshwari Sahu, R/o Uchh Bhatti, Tah. Sarangarh, P.S. Kosir, Distt. Raigarh C.G.

----Appellants**Versus**

1. Raju Shikarwar S/o Tilak Shikarwar Aged About 35 Years R/o of village Abhaypura, Post- Damalpura, Distt. Agra U.P., Presently R/o 447, Vyas Talab Bhanpuri, P.S. Khamtarai, Distt. Raipur C.G.
2. Ashok Kumar Pandey S/o Shiv Shankar Pandey Aged About 45 Years R/o Station Road, Majhli Talab, Champa, Distt. Janjgir-Champa C.G.
3. National Insurance Company Ltd, Meenu Complex, Kosabadi Korba, Distt. Korba C.G.

---- Respondents

For Appellants	Shri K.P. Sahu, Advocate.
For Respondent No.3	Shri Shivendu Pandya, Advocate.

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

04/02/2019

1. This appeal is by the claimants against the award dated 16.07.2014 passed by the Motor Accident claims Tribunal,

Korba, Chhattisgarh, in Claim Case No.64/10 awarding total compensation of Rs.3,80,000/- with interest @ 8% per annum from the date of application till realization, fastening liability on the non-applicants jointly and severally.

2. As per claim petition, on 03.01.2010 deceased Hari Shankar Sahu, aged about 41 years, earning Rs.12,000/- per month by running grocery shop, by crushing paddy through his paddy crushing machine, agriculture work and also working in the private company as Commission Agent, died in the motor vehicular accident caused due to rash and negligent driving of Truck bearing registration no. CG11-A-1956 by non-applicant No.1. At the time of accident, vehicle was owned by non-applicant no.2 and insured with non-applicant no.3
3. On claim petition being filed by the claimants (i.e. wife and children of the deceased) under Section 166 of the Motor Vehicles Act to the tune of Rs.30,23,400/-, the Tribunal considering the evidence led by both the parties passed an award as mentioned above.
4. No counter appeal has been filed by the respondents.
5. 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/- whereas it should have been Rs.12,000/-

(ii) that no amount towards future prospect has been granted to the claimants.

(iii) 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.***

6. 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.
7. Heard learned counsel for the parties and perused the material available on record.
8. As regards income of the deceased, though the claimants have pleaded that the deceased was earning Rs 12,000/- per month by running grocery shop, by crushing paddy through his paddy crushing machine, agriculture work and also working in the private company as Commission Agent,

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.4,000/- per month as per minimum wages at the relevant time. Further, considering the age of the deceased i.e. 41 years, 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.4,000/- x 12 = Rs.48,000/-
2.	25% towards future prospect	Rs.12,000/- Rs. 48,000 + Rs.12,000/- = Rs.60,000/-
3.	1/3 deduction towards personal and living expenses of the deceased	Rs.20,000/- Rs.60,000/- - Rs.20,000/- = Rs.40,000/-
4.	Multiplier of 15 to be applied	Rs.40,000 x 15 = Rs. 6,00,000/-
5.	Towards Conventional Heads (loss of estate, loss of spousal consortium and funeral expenses)	Rs.70,000/-
6.	Towards loss of parental consortium @ Rs.15,000/- each to claimants no. 2 to 4	Rs.45,000/-
	Total Compensation	Rs.7,15,000/-

Since the Tribunal has already awarded Rs.3,80,000/-, after deducting the same from the above amount, the claimants are held entitled for additional compensation of Rs.3,35,000/- with interest @ 8% per annum from the date of application till realization.

9. In the result, the appeal is allowed in part with modification in the impugned award to the above extent. However, rest of the conditions of the impugned award shall remain intact.

**Sd/-
(Gautam Chourdiya)
Judge**

Akhilesh