

AFR

**HIGH COURT OF CHHATTISGARH, BILASPUR****MAC No. 1084 of 2018**

1. Prembati Nishad W/o Ramratan Nishad Aged About 50 Years
2. Ramratan Nishad, S/o Gamhira, Aged About 53 Years
3. Loknath Nishad, S/o Ramratan Nishad, Aged About 16 Years

(Applicant No.3 Represented Through Natural Guardian Shri Ramratan Nishad, Father)

All are R/o Village Garhadih, P. O. Rampur, Tahsil Kurud, P. S. Bhakhara, District Dhamtari, Chhattisgarh.

---Appellants

**Versus**

1. Digeshwar Sahu S/o Ramau Ram Sahu, R/o Behind, R/o Behind Aaditya Transport Hirapur, Raipur, Chhattisgarh, Through Gurdeep Singh Dhindhra, S/o Harjod Singh Dhindhra, Subhash Para, Dhanupratappur, P. S. Bhanupratappur, District Kanker, Chhattisgarh. (Vehicle Truck No. C.G. 08-Y-8811, Driver)
2. Gurdeep Singh Dhindhra, S/o Harjod Singh Dhindhra, Aged About 40 Years R/o Nirminder Singh Bal, House No. 108, Ward No. 22, Anupam Nagar Rajnandgaon, District Rajnandgaon, Chhattisgarh. At Present Subhash Para, Bhanupratappur, P. S. Bhanupratappur, District Kanker, Chhattisgarh. (Vehicle Truck No. C. G. 08-Y-8811, Owner)
3. National Insurance Company Ltd., Through Branch Manager, Branch Office- Mobin Mahal, G. E. Road, Raipur, District Raipur, Chhattisgarh. (Vehicle Truck No. C. G. 08- Y- 8811 Insurer),

---- Respondents

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For Appellants  
For Respondent No.3

Shri Pushkar Sinha, Advocate.  
Shri Anil Gulati, Advocate.

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**Hon'ble Shri Justice Gautam Chourdiya****Order On Board****07/02/2019**

1. This appeal is by the claimants against the award dated

15.01.2018 passed by the Additional Motor Accident Claims Tribunal, Dhamtari, District Dhamtari, C.G. in Claim Case No.45/17 awarding total compensation of Rs.5,06,000/- with interest @ 6% per annum from the date of application till realization, fastening liability on the Insurance company.

2. As per claim petition, on 13.01.2017 deceased Tikeshwar Sahu unmarried, aged 19 years, earning Rs. 9,000/- per month as Painter, died in the motor vehicular accident caused due to rash and negligent driving of Truck bearing registration no. CG08-Y-8811 by non-applicant No.1, owned by non-applicant no.2 and insured with non-applicant no.3.
3. On claim petition being filed by the claimants i.e. Parents and Minor Brother 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 that he is challenging the quantum of compensation on the following grounds:-
  - (i) that income of the deceased has wrongly been considered by the Tribunal.
  - (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.

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.**

- 5. 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.
- 6. Heard learned counsel for the parties and perused the material available on record.
- 7. As regards income of the deceased, though the claimants have pleaded that the deceased was earning Rs.9,000/- per month as Painter 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.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:

| S.I. No. | Heads                         | Calculation (in rupees)                             |
|----------|-------------------------------|-----------------------------------------------------|
| 1.       | Income of the deceased        | Rs.6,000 x 12 = Rs.72,000/-                         |
| 2.       | 40% towards future prospects. | Rs.28,800/- Rs.72,000 + Rs.28,800/- = Rs.1,00,800/- |

|    |                                                                    |                                   |
|----|--------------------------------------------------------------------|-----------------------------------|
| 3. | ½ deduction towards personal and living expenses of the deceased   | Rs.50,400/-                       |
| 4. | Multiplier of 18 to be applied                                     | Rs.50,400 x 18 =<br>Rs.9,07,200/- |
| 5. | Towards conventional heads<br>(Loss of funeral and loss of estate) | Rs.30,000/-                       |
|    | <b>Total compensation</b>                                          | <b>Rs.9,37,200/-</b>              |

8. Since the Tribunal has already awarded Rs.5,06,000/-, after deducting the same from the above amount, the claimants are held entitled for additional compensation of Rs.4,31,200/- with interest @ 6% per annum from the date of application till realization. However, rest of the conditions of the impugned award shall remain intact.

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

Sd/-  
(Gautam Chourdiya)  
Judge

Akhilesh