

**HIGH COURT OF CHHATTISGARH, BILASPUR****MAC No. 1013 of 2017**

1. Smt. Champa Bai W/o Late Rajkumar Sen Aged About 38 Years Occupation House Wife,
2. Kumari Rajeshwwari D/o Late Rajkumar Sen Aged About 18 Years Occupation Student,
3. Kumari Maheshwari D/o Late Rajkumar Sen Aged About 16 Years Occupation Student,
4. Kumari Anisha D/o Late Rajkumar Sen Aged About 14 Years Occupation Student,
5. Rajju S/o Late Rajkumar Sen Aged About 11 Years Occupation Student,

Appellant No. 3 to 5 is minor through his legal guardian Mother Champa Bai,

All are the R/o Village - Ramhepur Thana And Tahsil Lormi District- Mungeli, Chhattisgarh

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

1. Bhuwan Prasad Baghel, Aged About 37 Years (Driver of the offending Vehicle Metador No. C.G. 10/C/3017), R/o Village Sahaspur, Post - Khaparikala Tahsil Lormi District Mungeli, Chhattisgarh.
2. Rajendra Kumar Sahu S/o Bhagat Ram Sahu, Aged About 34 Years (Owner of the offending vehicle Metador No. C.G. 10/C/3017), R/o Village Dinndouri Thana And Tahsil Lormi, District Mungeli, Chhattisgarh.
3. Shri Ram General Insurance Company Limited, E-7, Ricco Industrial Area Sitapur, Jaypur Rajsthan (Insurer).

**---- Respondents**


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| For Appellants   | : | Shri A.L. Singroul, Advocate. |
| Respondent No. 3 | : | Shri S.S. Rajput, Advocate.   |

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**Hon'ble Shri Gautam Chourdiya, J****Judgment On Board****29/03/2019**

- 1) This appeal is preferred by the claimants under Section 173 of the Motor Vehicles Act, 1988 against the award dated 17/05/2017 passed by Additional Motor Accident Claims Tribunal, Mungeli, District Mungeli (C.G.) in Claim Case No. 35/2013 awarding total compensation of 7,58,500/- with interest @ 6% per annum from the date of application till realization, fastening liability on the non-applicants jointly and severally.
- 2) As per claim petition, on 01/06/2013 deceased Rajkumar Sen, 42 years of age, earning Rs. 13,000/- as a Barber, was walking on the road around 10:00 PM coming at home from village Salheghori. However, on the way non-applicant No.1/Bhuwan Prasad Baghel driving Metador bearing No. CG10 C 3017 (offending vehicle) in a rash and negligent manner dashed the deceased. As a result of his accident Rajkumar Sen sustained grievous injury And died on the spot. At the time of accident the offending vehicle was owned by non-applicant No. 2/Rajendra Kumar Sen and insured with Non-applicant No. 3/Shri Ram General Insurance Co. Ltd.
- 3) On claim petition being filed by the claimants, wife and children 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 though he has raised various grounds in this memo of appeal, however, he is not pressed on those grounds and is assailing the awards on the following grounds only :-
  - i. that income of the deceased has wrongly been considered by the Tribunal as Rs. 4000/- per month; whereas it should have

been Rs. 13000 per month.

ii. that the 1/4 deduction towards personal and living expenses is also against the law and it should have been 1/10 pursuant to the large family left by the deceased.

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 and 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***

- 5) Learned counsel for the respondent/Insurance Company submitted that the compensation awarded by the claims Tribunal is justified and proper in this case and needs no interference.
- 6) Heard learned counsel for the parties and perused the material available on record.
- 7) After perusal of the case at utmost circumspection, the only issue regarding the income of the deceased is deserves to be interfered as looking to the minimum wages at the time of accident Rs. 5,000 per month is safely considered as unskilled labour in the absence of any proof regarding the income. 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 and Magma General Insurance Co. Ltd.* (Supra), the claimants are held entitled for compensation in the following manner:-

| Sl. No. | Heads                                                              | Calculation (in rupees)             |
|---------|--------------------------------------------------------------------|-------------------------------------|
| 01.     | Income of the deceased @ Rs 5000 per month.                        | (Rs. 5000x12) = Rs. 60000 per annum |
| 02.     | 25 % of (i) above to be added towards future prospects.            | (Rs. 60000 + 15000) = Rs. 75,000/-  |
| 03.     | 1/4 deduction towards personal and living expenses of the deceased | (Rs. 75000 - 18750) = Rs. 56,250/-  |
| 04.     | Multiplier of 14 to be applied                                     | (Rs. 56250 x 14) = Rs. 7,87,500/-   |
| 05.     | Towards parental consortium (as awarded by Tribunal)               | Rs. 2,00,000/-                      |
| 06.     | Towards loss of estate, loss of consortium and funeral expenses    | Rs. 70,000/-                        |
|         | <b>Total compensation</b>                                          | <b>Rs. 10,57,500/-</b>              |

Since the Tribunal has already awarded Rs. 7,58,500, after deducting the same from the above amount, the claimants are held entitled for additional compensation of Rs. 2.99,000/- with interest @ 6% per annum from the date of application till realization. However, rest of the conditions of the impugned award shall remain intact.

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

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