

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 575 of 2014**

1. Rameshwar S/o Sakharam Lodhi Aged About 28 Years
2. Anuram S/o Sakharam Lodhi Aged About 25 Years
3. Chandel Singh S/o Sakha Ram Lodhi Aged About 22 Years
4. Chandan Singh S/o Sakha Ram Lodhi Aged About 19 Years

All are caste of Lodhi, Resident of Shivji Ward Shivpur, Tashil Mungeli,
District Mungeli, C.G.

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

1. Alekhpal S/o Shri Loluram Pal Aged About 29 Years Vehicle Driver Of Rambo Bus Bearing Registration No. C.G. 04e/0187 R/o Village Nandghat, Police Station Nandghat, District Durg, C.G.
2. Anurag Shukla S/o Suresh Chand Shukla, Aged About 46 Years Vehicle Owner Of Rambo Bus Bearing Registration No. C.G. 04/E/0187 R/o Shukla Colony Ravi Nagar, Raipur, District Raipur, C.G.
3. The Oriental Insurance Co. Ltd., Bilaspur, District Bilaspur, C.G.

---- Respondents

For Appellants	Shri C.K. Sahu, Advocate.
For Respondent No.3	Shri H.B. Agrawal, Senior Advocate with Ms. Preeti Yadav, Advocate.

Hon'ble Shri Justice Gautam Chourdiya
Judgment on Board

20/02/2019

This appeal is by the claimants against the award dated 02.09.2013 passed by Additional Motor Accident Claims Tribunal, Mungeli, District Bilaspur, C.G. in Claim Case No.5/12 awarding total compensation of Rs.1,09,000/- with interest @ 6% per annum from the date of application till realization, fastening liability on the non-

applicants jointly and severally.

02. As per claim petition, on 12.09.2011, deceased Aghaniya Bai, aged about 50 years, earning Rs.300-400/- per day as Vegetable Vendor, died in the motor vehicular accident caused due to rash and negligent driving of Rambo Bus bearing no. CG04-E-0187 by non-applicant No.1. At the time of accident, offending vehicle was owned by non-applicant no.2 and insured with non-applicant no.3.

03. On claim petition being filed by the claimants i.e. Children of deceased under Section 166 of the Motor Vehicles Act for compensation to the tune of Rs.13,50,000/-, the Tribunal considering the evidence led by both the parties passed an award as mentioned in para 1 of this judgment.

04. Learned counsel for the appellants/claimants submits that though he has raised various ground in the memo of appeal, however, he is not pressing all those grounds and assailing the award on the following grounds:

(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.300-400/- per day.

(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.

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. No counter appeal has been filed by the respondents as submitted by both the parties.

07. Heard learned counsel for the parties and perused the material available on record.

08. As regards income of the deceased, though the claimants have pleaded that the deceased was earning Rs.300-400/- per day as Vegetable Vendor 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. 55 years, the dependency i.e. 4 persons, the nature of her 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:

Sl. No.	Heads	Calculation (in rupees)
01.	Income of the deceased @ Rs.4000/- per month.	Rs.48,000/- per annum
02.	10% of (i) above to be added towards	Rs.4,800/-

	future prospects.	Rs.48,000 + Rs.4,800 = Rs.52,800/-
03.	1/4 deduction towards personal and living expenses of the deceased	Rs.13,200/- Rs.52,800 – Rs. 13,200 = Rs.39,600/-
04.	Multiplier of 11 to be applied	Rs.4,35,600/-
05.	Towards loss of estate and funeral expenses	Rs.30,000/-
	Total compensation	Rs.4,65,600/-

Since the Tribunal has already awarded Rs.1,09,000/-, after deducting the same from the above amount, the claimants are held entitled for additional compensation of Rs.3,56,600/- 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**

Akhilesh