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**HIGH COURT OF CHHATTISGARH, BILASPUR****MAC No. 970 of 2014**

1. Tekmati wife of Tikeshwar @ Shyam Patel, aged about 28 years, Occupation- Housewife,
2. Minor Lobhita daughter of Tikeshwar @ Shyam Patel, aged about 09 years, Occupation- Student,
3. Minor Sandeep son of Tikeshwar @ Shyam Patel, aged about 04 years,
4. Thakur son of Rasiya, aged about 52 years, Occupatio- Nil
5. Hemlata wife of Thakur Ram, aged about 50 years, Occupation- Housewife,

Appellants No. 2 & 3 are minor, through legal guardian mother Smt. Tekmati wife of Tikeshwar @ Shyam Patel,

All are resident of Village- Semra, Police Station and Tahsil- Pussore, District- Raigarh (C.G.).

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

1. Makeshar Ram son of Virendra Ram, Caste- Mahar, aged about 29 years, resident of Rishi Paharpur, Police Station- Sujgarha, District- Muger (Bihar), at present Fathamuda, Police Station Jutmill, Tahsil and District- Raigarh (C.G.).
2. Sunil Kumar Pandey son of Lalita Prasad Pandey, resident of Laxmipur, Raigarh, Police Station- City Kotwali, Tahsil and District- Raigarh (C.G.).
3. Branch Manager, through Universal Sompo General Insurance Co. Ltd., Branch Manager, First Floor Block No. 4, Paryawas Bhawan, Arera Hills Jail Road Bhopal (M.P.).

**---- Respondents**


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|----------------------|---|-------------------------------|
| For Appellants       | : | Shri Aashish Gupta, Advocate. |
| For Respondent No. 3 | : | Shri Amrito Das, Advocate.    |

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**Hon'ble Shri Gautam Chourdiya, J****Judgment On Board**

**07.03.2019**

This appeal is by the claimants against the award dated 23.06.2014, passed by Motor Accident Claims Tribunal, Raigarh (C.G.) in Claim Case No. 121/2012 awarding total compensation of Rs. 7,04,600/- 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 26.12.2011 at night, deceased – Tekeshwar @ Shyam Patel, aged about 30 years, earning Rs. 7,500/- pm as electrician died in the motor vehicle accident due to rash and negligent driving of Trailer (offending vehicle) bearing registration No. CG13-L/1386 by non-applicant No.1- Makeshar Ram. The offending vehicle is owned by non-applicant No. 2 & insured with non-applicant No. 3.

03. On claim petition being filed by the claimants/wife, children & parents of the deceased- Tekeshwar @ Shyam Patel under Section 166 of the Motor Vehicles Act, the Tribunal considering the evidence led by both the parties passed an award as mentioned above.

04. Learned counsel for the appellants/claimants submits as under :-

- i. that income of the deceased has wrongly been considered by the Tribunal as Rs 7,300/-pm, which should be enhanced suitably.
- ii. that 1/3rd deduction towards personal and living expenses of the deceased is also against the law and it should have been 1/4th.
- iii. that no amount towards future prospect has been granted to the claimants.
- iv. that multiplier of 12 has wrongly been applied and considering the age of the deceased, it should have been 17.

v. that the amount awarded under the conventional heads 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 No. 3/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, learned Tribunal considered the income of deceased as Rs. 7300/- per month as electrician, looking to the permanent salaried paid employee & salary certificate, the income of the deceased considered as Rs. 7,300/- per month by the Tribunal is just & proper. As per statement of smt. Tekmati patel (AW No.-01) wife of the deceased this fact is proved that at the time of accident, the age of the deceased was 30 years, therefore, as per Apex Court Judgment in the matter of Sarla Verma (Smt.) the multiplier of 17 would be applicable instead of 12. Looking to the age of the deceased as above stated 50% future prospect would be added into the income of the deceased in the light of Supreme Court judgment in the matter of Pranay Sethi (Supra). 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:-

| Sl. No. | Heads | Calculation (in rupees) |
|---------|-------|-------------------------|
|---------|-------|-------------------------|

|     |                                                                            |                                       |
|-----|----------------------------------------------------------------------------|---------------------------------------|
| 01. | Income of the deceased @ Rs. 7,300 per month).                             | Rs. 7300 x 12= Rs. 87,600/- per annum |
| 02. | 50% of (1) above to be added towards future prospects.                     | Rs. 87,600+ 43800= Rs. 1,31,400/-     |
| 03. | After 1/4th deduction towards personal and living expenses of the deceased | Rs.1,31,400 – 32,850 = Rs. 98,550/-   |
| 04. | Multiplier of 17 to be applied                                             | Rs. 98550 x 17 = Rs. 16,75,350/-      |
| 05. | Towards loss of funeral expenses & loss of estate                          | Rs. 70,000/-                          |
| 06. | <b>Total Compensation</b>                                                  | <b>Rs.17,45,350/-</b>                 |

Since the Tribunal has already awarded Rs. 7,04,600/-, after deducting the same from the above amount, the claimants are held entitled for additional compensation of Rs. 10,40,750/-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**