

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 1376 of 2017**

1. Animesh Gulati S/o Late Ajay Gulati Aged About 18 Years
2. Jagdish Gulati S/o Late S. L. Gulati Aged About 73 Years
3. Smt. Sushila Gulati W/o Jagdish Gulati Aged About 70 Years

All are R/o Village Rudra Chowk Vikash Vihar Colony, Tahsil And District Raipur, Chhattisgarh.

----Appellants**Versus**

1. Ghanshyam Khadse S/o Ishwar Aged About 35 Years R/o Near Shiv Mandir Bhairav Nagar, Main Road Tikrapara, Thana Tikrapara, Raipur, District Raipur, Chhattisgarh (Driver Of The Offending Vehicle Car No. CG 17/ C /6633)
2. Devendra Kumar Tiwari S/o Radheshyam Tiwari R/o Village Kathadih, Thana Sejbahar, Raipur, District Raipur, Chhattisgarh (Owner Of The Offending Vehicle Car No. CG 17/ C /6633)
3. Magma H. D. I. General Insurance Company Limited, Through Divisional Officer, Address- 3/ New Ground 5th Floor Chirhuldi Ward Near Rajkumar College Tahsil And District Raipur, Chhattisgarh (Insurer of the Offending Vehicle Car No. CG 17/ C /6633)

---- Respondents

For Appellants	Shri A.L. Singroul, Advocate.
For Respondent No.3	Shri D.L. Dewangan, Advocate.

Hon'ble Shri Justice Gautam Chourdiya
Judgment on Board

25/03/2019

This appeal is by the claimants against the award 22.02.2017 passed by the First Additional Presiding Officer of First Additional Motor Accident Claims Tribunal, Raipur, C.G. in Claim Case No.522/15 awarding total compensation of Rs.9,75,352/- with interest @ 7.5 per annum from the date of application till realization, fastening liability on

the Insurance Company along with non-applicant nos. 1 & 2 jointly and severally.

02. As per claim petition, on 29.05.2015 deceased Nidhi Gulati, aged about 45 years, earning Rs.7,771/- per month as Teacher, died in the motor vehicular accident caused due to rash and negligent driving of car bearing no. CG17-C-6633 by non-applicant No.1/respondent no.1. At the time of accident, offending vehicle was owned by non-applicant no.2/respondent no.2 and insured with non-applicant no.3/respondent no.3.

03. On claim petition being filed by the claimants i.e. Son, Mother-in-law & Father-in-law of deceased under Section 166 of the Motor Vehicles Act for compensation to the tune of Rs.17,68,780/-, 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 he has raised various grounds in his memo of appeal, however, he is not raising all those grounds and is assailing the award on the following grounds:

(i) that income of the deceased has wrongly been considered by the Tribunal as Rs.7,771/- per month whereas it should have been Rs.8,000/- per month, looking to the job of the deceased.

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

(iii) that no amount towards loss of filial and other consortium has been granted.

(iv) that the Tribunal has awarded only 7.5% simple interest

whereas it should have been 9% per annum.

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.***

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

07. As regards income of the deceased, the Tribunal was justified in assessing the income of the deceased as Rs.7,771/- per month as per salary certificate Ex.P-11. However, no amount towards future prospect has been granted by the Tribunal. Therefore, considering the judgment of the Hon'ble Supreme Court in Pranay Sethi, (supra), 30% of the annual income is to be added thereto towards future prospect.

Further, considering the age of the deceased i.e. 45 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:

Sl. No.	Heads	Calculation (in rupees)
01.	Income of the deceased @ Rs.7,771/- per month.	Rs.93,252/- per annum
02.	30% of (i) above to be added towards future prospects.	Rs.27,975/- Rs.93,252 + Rs.27,975 = Rs.1,21,227/-
03.	1/3 deduction towards personal and living expenses of the deceased	Rs.40,409/- Rs.1,21,227 – Rs.40,409 = Rs.80,818/-
04.	Multiplier of 14 to be applied	Rs.11,31,452/-
05.	Towards loss of estate & funeral expenses	Rs.30,000/- (as awarded by the Tribunal)
06.	Towards loss of love and affection to claimant nos. 2 & 3 @ Rs.25,000/- each	Rs.50,000/- (as awarded by the Tribunal)
07.	Towards loss of parental consortium to claimant no.1.	Rs.25,000/- (as awarded by the Tribunal)
	Total compensation	Rs.12,36,452/-

Since the Tribunal has already awarded Rs.9,75,352/-, after deducting the same from the above amount, the claimants are held entitled for additional compensation of Rs.2,61,100/- with interest @ 7.5% 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

