

HIGH COURT OF CHHATTISGARH, BILASPUR

MAC No. 380 of 2014

1. Sunderlal Patel S/o Shri Achchheram Patel, aged about 38 years, Occupation- Agriculturist.
2. Smt. Kachara Bai Patel W/o Shri Sunderlal Patel, aged about 36 years, Occupation- house wife.

Both are r/o- Village- Kabaripali, Post- Kotami, Police Station and Tahsil- Dabhara, Civil and Revenue District- Janjgeer- Champa (C.G.).

---- Appellants/Claimants

Versus

1. Yogesh Kumar Patel S/o Shri Suresh Kumar Patel, aged about 35 years, Occupation- Agriculturist and Owner of Vehicle, R/o- Village- Bokramuda, Post- Nandeli, Police Station- Kotraroad Raigarh, Tahsil and Civil and Revenue District- Raigarh (C.G.)

(Owner of the offending vehicle)

2. Thakur Charan Jamduliya S/o Shri Nehrual Jamduriya, aged about 21 years, Occupation- Driver of Vehicle, R/o- Village- Ruchida, Post- Bhukta, Police Station- Amabhauna, District- Bargarh (Odisha),

Presently resident at C/o House of Rajesh Patel, R/o- Village- Bokramuda, Post- Nandeli, Police Station- Kotraroad Raigarh, Tahsil and Civil and Revenue District- Raigarh (C.G.)

(Driver of the offending vehicle)

3. Universal Sompo General Insurance Co. Ltd. Through: the Branch Manager, First floor, Plot No. 4, Parawas Bhawan, Arora Hills, Jail Road, Bhopal (M.P.)

(Now the Insurance Company has open the branch in the State of Chhattisgarh and earlier the notice was sent in the Bhopal address then the company did not response thereafter the notice was sent in the Raipur address then the company participated in the Tribunal but in meanwhile the appellants could not correct the address in the claim petition before the claim Tribunal)

Universal Sompo General Insurance Co. Ltd. through: the Branch Manager, First Floor, B-7, Shriram Nagar, T.V. Tower Road, Raipur, Civil and Revenue District- Raipur (C.G.)

(Insurer of the offending vehicle)

---- Respondents

For Appellants : Shri Roop Naik, Advocate.
For Respondent No.3 : Shri Amrito Das, Advocate alongwith
Shri K. Rohan, Advocate.

Hon'ble Shri Gautam Chourdiya, J

Judgment On Board

17.01. 2019

This appeal is by the claimants against the award dated 11.02.2014 passed by 1st Additional Motor Accident Claim Tribunal, Raigarh in Claim Case No.14/2012 awarding total compensation of 1,92,000/- with interest @ 6% per annum from the date of application till realization, fastening liability on the non-applicant No.3/Insurance Company.

02. As per claim petition, on 23.10.2011 deceased Raju @ Khilleshwar Patel, aged about 19 years, earning Rs.6,000/- per month died in the motor vehicle accident caused due to rash and negligent driving of offending vehicle bearing registration No. CG13D/0493 by non-applicant No.2- Thakur Charan Jamduliya.

03. On claim petition being filed by the claimants/parents of the deceased 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.3,000/- whereas it should have been Rs 6,000/-

(iii) that multiplier of 10 has wrongly been applied and considering the age of the deceased, it should have been 18.

(iv) that no amount towards future prospect has been granted to the

claimants.

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

07. As regards income of the deceased, though the claimants have pleaded that the deceased was earning Rs. 6,000/- per month 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.4500/- 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:

Sl. No.	Heads	Calculation (in rupees)
01.	Income of the deceased @ Rs.4500 per month.	Rs. 54,000/- per annum
02.	40% of (i) above to be added towards future prospects.	Rs. 54,000+21,600=Rs. 75,600
03.	1/2 deduction towards personal and	Rs. 37,800/-

	living expenses of the deceased	
04.	Multiplier of 18 to be applied	Rs. 6,80,400
05.	Towards loss of estate and funeral expenses	Rs. 30,000/-
	Total compensation	Rs. 7,10,400/-

Since the Tribunal has already awarded Rs.1,92,000/- after deducting the same from the above amount, the claimants are held entitled for additional compensation of Rs.5,18,400/- 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