

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 605 of 2013**

1. Smt. Namita Sarkar W/o Late Govind Sarkar Aged About 42 Years,
2. Olibiya Sarkar D/o Late Govind Sarkar Aged About 15 Years,
3. Niladri Sarkar S/o Late Govind Sarkar Aged About 10 Years,

Appellant No. 2 & 3 are minor, Thru- Mother Smt. Namita Sarkar, all R/o Nandani Road, Subhash Nagar, Power House, Bhilai, P.S. Chhawani, Civil And Revenue Distt. Durg (C.G.).

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

1. Ravi Kant Kaushal S/o Murlidhar Kaushal, Aged About 22 Years Caste – Satnami, R/o Krishna Nagar, Ganesh Chowk, Supela Bhilai, Distt. Durg (C.G.).
2. Ram Awatar Nirmalkar S/o Rukalu Ram Nirmalkar, Aged About 64 Years R/o Nandani Road, Nakapara, Jamul, Civil And Revenue Distt. Durg (C.G.).
3. Branch Manager, The Oriental Insu. Co. Ltd., Divisional Office 9/1, Dakshin Gangotri, Supela, Civil And Revenue Distt. Durg (C.G.).

---- Respondents

For Appellants	:	Shri Vipin Tiwari, Advocate.
Respondent No. 3	:	Shri N.K. Malviya, Advocate.

Hon'ble Shri Gautam Chourdiya, J**Judgment On Board****21/06/2019**

- 1) This appeal is preferred by the claimants under Section 173 of the Motor Vehicles Act, 1988 against the award dated 18/03/2013 passed by VIth Additional Motor Accident Claims Tribunal, Durg, District Durg (C.G.) in Claim Case No. 48/2012

awarding total compensation of Rs. 4,32,000/- with interest @ 6% per annum from the date award till realization, fastening liability on the non-applicants No. 1, 2 & 3 jointly and severally.

- 2) As per averments claim petition, on 24/05/2012 deceased Govinda Sarkar, 48 years of age, earning Rs. 18,000/- working as Ornament designer, was returning to his home by bicycle. However, on the way near Garage Rode behind Sai College non-applicant No.1/Ravi Kant Kaushal driving Tata D.I.-207 (offending vehicle) bearing No. CG04 J 6085, driven the vehicle rashly and negligently dashed the deceased Govinda Sarkar. As a result of his accident deceased sustained grievous injury and declared died at Hospital. At the time of accident the offending vehicle was owned by non-applicant No. 2/Ram Awatar Nirmalkar and insured with Non-applicant No. 3/The Oriental Insurance Co. Ltd.
- 3) On claim petition being filed by the claimants, wife and children 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 in Para 1 of this judgment.
- 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. 3,000/- per month; whereas it should have been Rs. 18,000/- per month.
 - 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*** and ***National Insurance Co. Ltd. Vs. Pranay Sethi, (2017) 16 SCC 680***.

- 5) 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 matter has rightly awarded compensation which needs no interference by this Court.
- 6) Heard learned counsel for the parties and perused the material available on record.
- 7) As regards income of the deceased, though the claimants have pleaded that the deceased was earning Rs. 18,000/- per month working as Ornament Designer 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. 5,000/-per month as per minimum wages at the relevant time as skilled labour. Further, considering the age of the deceased i.e. 48 years as it is evident from Death Information (Ex. P-11) & PM Report (Ex. P-15), 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 5000/- per month.	(Rs. 5000x12) = Rs. 60,000 per annum
02.	25 % of (i) above to be added towards future prospects.	(Rs. 60000 + 15000) = Rs. 75,000/-
03.	1/3 deduction towards personal and living expenses of the deceased	(Rs. 75000 - 25000) = Rs. 50,000/-
04.	Multiplier of 13 to be applied	(Rs. 50000 x 13) = Rs. 6,50,000/-

Sl. No.	Heads	Calculation (in rupees)
05.	Towards loss of estate, loss of consortium and funeral expenses	Rs. 70,000/-
06.	Towards loss of parental consortium	Rs. 30,000/- (as awarded by Tribunal)
	Total compensation	Rs. 7,50,000/-

Since the Tribunal has already awarded Rs. 4,32,000/-, after deducting the same from the above amount, the claimants are held entitled for additional compensation of Rs. 3,18,000/- 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