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HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 102 of 2013**

1. Smt. Bhukhin Bai Sahu W/o Late Anand Ram Sahu Aged About 48 Years,
2. Omprakash Sahu S/o Late Anand Ram Sahu Aged About 13 Years Through- Appellant No. 1,
3. Niranjana Kumar Sahu S/o Late Anand Ram Sahu Aged About 26 Years,

All are R/o Sahada, Post Bhawanipur, P.S. And Tahsil Palari, Distt. Baloda Bazar-Bhatapara (C.G.).

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

1. Kishan Kumar Sahu S/o Faguram Sahu Aged About 30 Years R/o Shastri Nagar, Behind Mehman Coad Dept., Camp-1, P.S. Bhilai Chhawani, Bhilai, Distt. Durg (C.G.). (Driver)
2. Ubbedullah Siddiqui S/o Late M.M. Ajiz Siddiqui Aged About 35 Years R/o H. No. 29/C, Road Avenue-A, Sector-7, Bhilai, Distt. Durg (C.G.).(Owner)
3. United India Insurance Co. Ltd., Paras Complex, In front of Gurudwara, State Bank Of India, Station Road, Durg, Distt. Durg (C.G.). (Insurer)

---- Respondents

For Appellants	:	Shri Ashok Soni, Advocate.
For Respondent Nos. 1 & 2	:	Shri Kalpesh Ruparel, Advocate.
For Respondent No. 3	:	Shri Dashrath Gupta, Advocate.

Hon'ble Shri Gautam Chourdiya, J**Judgment On Board****16/04/2019**

- 1) This appeal is by the claimant under Section 173 of the Motor Vehicles Act, 1988 against the award dated 04/10/2012 passed by First Additional Motor Accident Claims Tribunal Baloda-Bazar,

District Raipur (C.G.) in Claim Case No. 50/2012 awarding total compensation of Rs. 2,31,000/- with interest @ 6% per annum from the date of application till realization, fastening liability on the non-applicants No. 1 to 3 jointly and severally.

- 2) As per averments in the claim petition, deceased Anand Ram Sahu, aged about 55 years, earning Rs. 21600/- per month as Agriculturist, by riding his motorcycle Hero Honda going to village Kanji via village Binori and Amera alongwith Aleana Bai Sahu on 27/04/2012. On the same day at around 12:15 PM near the culvert of Binori one Kishan Kumar Sahu/Non-applciant No. 1, who was driving the offending vehicle Tata 709 bearing No. CG15 ZB 0513 dashed the Anand Ram Sahu by rash and negligent driving. Consequently, Anand Ram Sahu died having suffered grievous injury and Aleana Bai Sahu had a simple injury. Offending vehicle was owned by non-applicant No.2/Ubbedullah Siddiqui and insured with non-applicant No. 3/United India 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.
- 4) Learned counsel for the appellants/claimants submits as under:
 - i. that monthly income of the deceased has wrongly been considered by the Tribunal as Rs. 3000/-; whereas it should have

been Rs. 21,666/-.

- 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 respondents support 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) No counter appeal has been filed by the respondents as submitted by counsel for the parties.
- 8) As regards income of the deceased, though the claimants have pleaded that the deceased was earning Rs. 21666/- per month as Agriculturist 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. 4,500/- per month as per minimum wages at the relevant time. Further, considering the 59 years of age of the deceased, the dependency, the nature of his job and the decisions of the Hon'ble Supreme Court in *Sarla Verma and 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. 4500 x12) = Rs. 54,000 per annum
02.	10% of (1) above to be added towards future prospects.	(Rs. 54000 + 5400) = Rs. 59,400/-
03.	1/3 deduction towards personal and living expenses of the deceased	(Rs. 59400 - Rs. 19800) = Rs. 39,600/-
04.	Multiplier of 9 to be applied	(Rs. 39600 x9) = Rs. 3,56,400/-
05.	Towards loss of estate, consortium and funeral expenses.	Rs. 70,000/-
	Total compensation	Rs. 4,26,400/-

Since the Tribunal has already awarded Rs. 2,31,000/-, after deducting the same from the above amount, the claimants are held entitled for additional compensation of Rs. 1,95,400/- with interest @ 6% per annum from the date of application till realization. However, rest of the conditions of the impugned award shall remain intact.

- 9) In the result, the appeal is allowed in part with modification in the impugned award to the above extent.

-Sd/-
(Gautam Chourdiya)
Judge