

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 176 of 2015**

1. Shivkumari Sahu W/o Late Shambhu @ Govardhan Sahu; aged about- 27 year; R/o Village & Post- Hirri; Police Station & Tahsil- Masturi; District (Revenue and Civil)- Bilaspur (C.G.).

---- Appellant/Claimant**Versus**

1. Hardayram S/o Paluram @ Sammelal Kenwat/Kaiwart; R/o Village- Khaprideeh; Police Station & Tahsil- Bilaigarh; District (Revenue & Civil)- Balodabazar- Bhatapara (C.G.); (Driver of the Tractor No.-C.G.-04-D.T.-3871 & Trolley No.- C.G.-04-D.T.-3872).
2. Bodhan Patel S/o Indalsai Patel; aged about-50 years; R/o Village- Khaprideeh; Police Station & tahsil- Bilaigarh; District (Revenue & Civil)- Balodabazar- Bhatapara (C.G.); (owner of the Tractor No.- C.G.-04-D.T.-3871 & Trolley No. - C.G.-04-D.T.-3872).
3. L. & T. General Insurance Company Limited; Chief Executive; Branch Office- 1st Floor, Mechanical Mol, A-103, Naya Pali, Bhuneshwar (Odissa) (Insurer of the Tractor No.- C.G.-04-D.T.- 3872).

---- Respondents

For Appellants	:Shri Aanand Keshewani, Advocate.
For Respondent No.1 & 2	:None
For Respondent No.3	:Shri Rohitashav Singh, Advocate.

Hon'ble Shri Gautam Chourdiya, J**Judgment On Board****27.03. 2019**

This appeal is by the claimant against the award dated 28.08.2014, passed by 3rd Additional Member to the Court of 1st Additional Motor Accident Claims Tribunal, Bilaspur (C.G.) in Claim Case No. 01/2013 awarding total compensation of Rs. 1,70,000/- 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 05.04.2012, at about 9.00pm deceased

Raja @ Sanjeev Kumar, aged about 6 years, died in the motor vehicle accident caused due to rash and negligent driving of offending vehicle tractor & trolley bearing registration No. -C.G.-04-D.T.-3871 & C.G.-04-D.T.-3872 respectively by non-applicant No.1- Hriday Ram. The vehicle is owned by Non-applicant No. 2 and insured with Non-applicant No. 3.

03. On claim petition being filed by the claimant/mother of the deceased- Raja @ Sanjeev Kumar under Section 163-A of the Motor Vehicles Act, the Tribunal considering the evidence led by both the parties passed an award as mentioned above. However, no counter appeal has been filed by the respondents in this case.

04. Learned counsel for the appellant/claimant submits that at the time of accident, deceased was aged about 6 years old but learned Tribunal considered only Rs. 15,000/- per annum as notional income, the accident occurred on 05.04.2012, looking to the price index and minimum wages and upper limit of income of Rs. 40,000/- per annum under Section 163-A of the Motor Vehicle Act, Rs. 30,000/- p.a. income should be considered as notional income. He further submits 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 the income of the deceased, the learned Tribunal has

not rightly assessed the income of the deceased, the deceased at the relevant point of time, was the student and considering his bright future, the income of the deceased can safely be considered as Rs. 30,000/-pa on notional basis. At the time of accident the deceased was aged about 06 years therefore, multiplier of 15 considered by the learned Tribunal is just & proper. Further, considering the age of the deceased i.e. 6 years, the dependency and the nature of job and the decisions of the Hon'ble Supreme Court in *Sarla Verma, Pranay Sethi*, (supra), the claimant is held entitled for compensation in the following manner:

Sl. No.	Heads	Calculation (in rupees)
01.	Income of the deceased	Rs. 30,000/- per annum
02.	1/3rd deduction towards personal and living expenses of the deceased	Rs.30,000-10,000= Rs. 20,000/-
03.	Multiplier of 15 to be applied	Rs. 3,00000/-
04.	Towards loss of estate and funeral expenses	Rs. 30,000/-
05	Total compensation	Rs. 3,30,000/-

Since the Tribunal has already awarded Rs.1,70,000/-, after deducting the same from the above amount, the claimant is held entitled for additional compensation of Rs.1,60,000/- with interest @ 6% per annum from the date of application till realization. However, rest of the conditions of the impugned award shall remain intact.

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

Sd/-

(Gautam Chourdiya)
Judge