

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 1338 of 2018**

1. Smt. Sandhya Devi W/o Late Raju Paswan aged about 28 years, Occupation House Wife
2. Vikas Paswan S/o Late Raju Paswan aged about 9 years,
3. Abhishek Paswan S/o Late Raju Paswan aged about 7 years,
4. Akash Paswan S/o Late Raju Paswan aged about 5 years
5. Smt. Bigani Devi W/o Sahendar Paswan aged about 64 years, Occupation nothing.
6. Sahendar Paswan (Manjh) S/o Late Lagan Paswan, aged about 66 years, Occupation Nothing

Appellant nos. 2 to 4 minor through guardian & mother Smt. Sandhya Devi (appellant no.1)

All R/o Village Panjarikala P.S. & Vishrampur, District Palamu Jharkhand.

---- Appellants**Versus**

1. Ramadhar Porte @ Ghasi Ram S/o Dhola Ram, aged about 45 years, R/o Village Karra (Navapara) Post Babouli P.S. & Tehsil Dhourpur, District Surguja C.G. (Owner of the Tractor C.G. 15-C-W-8365)
2. Branch Manager, Chola Mandalam M/s. General Insurance Company Limited Branch Office 2nd Floor Simran Towers, Behind LIC Building Pandari, Raipur, District Raipur, C.G. (Insurance Company of Tractor No. CG15-CW-8365).

---- Respondents

For Appellants	:	Shri Nishikant Sinha, Advocate.
For Respondent No.2	:	Shri Amit Buxy, Advocate.

Hon'ble Shri Gautam Chourdiya, J**Judgment On Board****09.01.2019**

- 1.** The appellants/claimants have filed this appeal under Section 173 of the Motor Vehicles Act, 1988 (in short “the Act”) seeking enhancement of compensation awarded by the 3rd Additional Motor Accident Claims Tribunal, Ambikapur, District Surguja, C.G. in Claim Case No.190/2017 vide award dated 05.05.2018, thereby granting compensation of Rs.4,84,700/- with interest @ 6% per annum from the date of application till realization in favour of the claimants, fastening liability upon respondent No.2/insurance company.
- 2.** As per averments made in the application filed under Section 163A of the Act by the claimants i.e. wife, children and parents of deceased Raju Paswan, aged about 30 years, earning Rs.3,300/- working as Driver, on 25.07.2017 Moti Yadav (who also died subsequently) driving the vehicle Tractor bearing No. CG15-CW-8365 in a rash and negligent manner, dashed the deceased as a result of which deceased suffered grievous injuries and died in the hospital on the same day while undergoing treatment. At the time of accident, the offending vehicle was owned by respondent No.1 and insured with respondent No.2. Hence, the claimants by filing claim application sought compensation of Rs.13,19,900/- with interest from the respondents under various heads.
- 3.** The Tribunal considering the evidence of both the parties, by the impugned award granted compensation in favour of the claimants as mentioned above. Hence, this appeal by the claimants for enhancement of compensation. However, no counter appeal has been filed by the respondents in this case.

4. Counsel for the appellants submits that though he has raised various grounds in his memo of appeal, however, he is assailing the award only on the two grounds as under:-

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

5. On the other hand, learned counsel for the respondent/insurance company supports the impugned award and submits that since the claim petition was filed under Section 163A of the Act where compensation has to be awarded as per structured formula given in 2nd Schedule and that the Tribunal has already awarded the compensation in accordance with the 2nd Schedule, including the amount under the conventional heads, there is no requirement of granting any amount towards future prospect or enhancing the amount under the conventional heads.
6. Heard learned counsel for the parties and perused the material available on record.
7. As regards income of the deceased is concerned, the Tribunal has rightly assessed the income of the deceased as Rs.3,300/- per month as per minimum wages at the relevant time. Further, considering the age of the deceased i.e. 30 years, the dependency, the nature of his job i.e. Driver 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:

S.I. No.	Heads	Calculation (in rupees)
1.	Income of the deceased @ Rs.3,300/- per month.	Rs. 39,600/- per annum
2.	40% of (i) above to be added towards future prospects.	Rs.15,840/- Rs.39,600 + Rs.15,840 = Rs.55,440/-
3.	1/3 deduction towards personal and living expenses of the deceased	Rs.18,480/- Rs.55,440 – Rs.18,480 = Rs.36,960/-
4.	Multiplier of 18 to be applied	Rs.6,65,280/-
5.	Towards loss of estate, loss of consortium and funeral expenses	Rs.70,000/-
	Total compensation	Rs.7,35,280/-

Since the Tribunal has already awarded Rs.4,84,700/-, after deducting the same from the above amount, the claimants are held entitled for additional compensation of Rs.2,50,580/- 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