

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 1047 of 2015**

1. Smt. Ramkumari W/o Sanjay Jagte Aged About 21 Years R/o Village- Putputra, P. S. And Tahsil- Lakhanpur Distt.- Surguja, Chhattisgarh.

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

1. Claimant Edward S/o Late J. Adward Occupation- Owner R/o S. B. S. Colony S. E. C. L. Korba Distt- Korba Chhattisgarh.
2. Branch Manager The Oriental Insurance Company Limited Branch Office Manendragarh Road Near Ambedkar Chowk- Ambikapur Distt- Surguja Chhattisgarh.
3. Pawati Bai W/o Late Thakur Ram Aged About 55 Years R/o Village- Tikarapara Premnagar P. S. And Tahsil- Premnagar Distt- Surajpur Chhattisgarh.

---- Respondents

For Appellant	:	Shri A.N. Pandey, Advocate.
Respondent No. 2	:	Shri Sandeep Shrivastava, Advocate.

Hon'ble Shri Gautam Chourdiya, J**Judgment On Board****24/04/2019**

- 1) This appeal is preferred by the claimant under Section 173 of the Motor Vehicles Act, 1988 against the award dated 27/03/2015 passed by Motor Accident Claims Tribunal, Sarguja, (Ambikapur) (C.G.) in Claim Case No. 130/2013 awarding total compensation of 6,47,000/- with interest @ 6% per annum from the date of application till realization, fastening liability on the non-applicants jointly and severally.
- 2) As per claim petition, on 10/10/2012 at around 01:15 P.M. deceased Sanjay Jagte, 25 years of age, earning Rs. 15000/- per month as contractor and Councillor in Nagar Panchayat, was

going to village Putpura Lakhanpur with his wife by Indigo Car and the car was driven by the respondent No. 1/Rajeshwar Yadav and when they reach near village Janardanpur the vehicle was dashed in tree due to rash and negligence driving of the driver Sanjay Jagte sustained grievous injury and died during the course of treatment in Hospital at Ambikapur. At the time of accident the offending vehicle was owned by non-applicant No. 1/Claimant Edward and insured with Non-applicant No. 2/The Oriental Insurance Co. Ltd. Driver of the offending vehicle was also died in same accident.

- 3) On claim petition being filed by the claimant, wife 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 appellant/claimant 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. 3000/- per month; whereas it should have been Rs. 15,000 per month.
 - ii. that no amount towards future prospect has been granted to the claimant.
 - iii. that the amount awarded under the conventional heads and other 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/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.
- 6) No counter appeal is filed by the respondents as submitted by both the parties.
- 7) Heard learned counsel for the parties and perused the material available on record.
- 8) As regards income of the deceased, though the claimants have pleaded that the deceased was earning Rs. 15000 per month contractor and Councillor in Nagar Panchayat 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. 5000/- per month for skilled labour as per minimum wages at the relevant time. Further, considering the age of the deceased between 25 to 30 years, 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 is held entitled for compensation in the following manner:-

S. N.	Heads	Calculation (in rupees)
01.	Income of the deceased @ Rs 5000 per month.	(Rs. 5000X12) = Rs. 60000 per annum
02.	40 % of (i) above to be added towards future prospects.	(Rs. 60000 + 24000) = Rs. 84,000/-
03.	1/3 deduction towards personal and living expenses of the deceased	(Rs. 84000 - 28000) = Rs. 56000/-
04.	Multiplier of 17 to be applied	(Rs. 56000 x 17) = Rs. 952000/-
05.	Towards loss of estate, loss of consortium and funeral expenses	Rs. 70,000/-
	Total compensation	Rs. 10,22,000 /-

Since the Tribunal has already awarded Rs. 6,47,000/-, after deducting the same from the above amount, the claimants are held entitled for additional compensation of Rs. 3,75,000/- with interest @ 6% per annum from the date of application till realization. However, rest of the conditions of the impugned award shall remain intact.

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

**-Sd/-
(Gautam Chourdiya)
Judge**