

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 515 of 2015**

1. Smt. Gangotri Sahu W/o Late Ramsumer Sahu Aged About 32 Years,
2. Kumari Malti Sahu D/o Late Ramsumer Sahu Aged About 10 Years,
3. Aakash Kumar S/o Late Ramsumer Sahu Aged About 7 Years,
4. Kumari Bharti Sahu D/o Late Ramsumer Sahu Aged About 4 Years,
5. Smt. Uma Bai W/o Gondu Ram Sahu Aged About 60 Years,
6. Gondu Ram Sahu S/o Late Pyare Lal Sahu Aged About 65 Years,

Appellant No. 2 to 4 Through Legal Guardian Mother – Smt. Gangotri Sahu W/o Late Ramsumer SAhu aged about 32 years.

All are R/o Village Chingraj Para Sarkanda Thana Sarkanda, Tahsil And District Bilaspur (C.G.).

---- Appellants/Claimants

Versus

1. Sujan Das Manikpuri S/o Man Das Manikpuri R/o Village Ghoghara Thana Navagarh, Distt. Bemetara (C.G.). Driver of offending Motorcycle No. CG10 EJ 6763.
2. Kumari Durpati Sahu W/o Shatruhan Sahu R/o Village C/o S.Sahu Amerpur Mungeli Tahsil And Distt. Mungeli (C.G.). Owner of offending Motorcycle No. CG10 EJ 6763.
3. The National Insurance Company Limited, Through Mandal Manager Mandal Office Taha Complex Byapar Vihar Road Bilaspur Tahsil And Distt. Bilaspur (C.G.) Insurer

---- Respondents

For Appellants	:	Shri A.L. Singroul, Advocate.
For Respondent No. 3	:	Shri Anil Gulati, Advocate.

Hon'ble Shri Gautam Chourdiya, J

Judgment On Board**08/05/2019**

- 1) Heard on **I.A. No. 01**, application for condonation of delay of 07 days in filing the appeal.
- 2) For the reasons mentioned in the application, which is duly supported by affidavit, application is allowed and delay in filing the appeal is hereby condoned.
- 3) Also heard on admission.
- 4) The appeal being arguable is admitted for hearing.
- 5) With the consent of parties, the matter is heard finally.
- 6) This appeal is preferred by the claimants under Section 173 of the Motor Vehicles Act, 1988 against the award dated 16/01/2015 passed by Third Additional Motor Accident Claims Tribunal Bilaspur (C.G.) in Claim Case No. 07/2013 awarding total compensation of Rs. 4,15,000/- with interest @ 6% per annum from the date of application till realization, fastening liability upon non-applicant No. 3/Insurance Company.
- 7) As per averments in the claim petition, on 06/11/2010 at around 09:45 PM, deceased Ramsumer Sahu, aged about 35 years, earning Rs. 3,300/- per month as Labour, was sitting in motorcycle bearing No. CG10 EJ 6763 as pillion rider and motorcycle was driven by non-applicant No.1/Sujan Das with a moderate speed. However, when he was returning from Mungeli near village Temri turning Bridge non-applicant No. 1 lost the control over vehicle and fell down into a pit. As a result of this accident deceased Ramsumer Sahu sustained grievous injuries and died during treatment. At the time of accident vehicle was owned by non-applicant No. 2/Ku. Durpati Sahu and insured with non-applicant No. 3/National Insurance Company Ltd.

- 8) On claim petition being filed by the claimants' wife, children and parents of the deceased under Section 163A of the Motor Vehicles Act, the Tribunal considering the evidence led by both the parties passed an award as mentioned above.
- 9) Learned counsel for the appellants/claimants has raised various grounds in this memo of appeal, however, he is not pressing on those grounds and is assailing the awards on the following grounds only:-
 - i. that no amount towards future prospect has been granted to the claimants. Looking to the age of the deceased as 35 years it should be 40%.
 - 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 and National Insurance Co. Ltd. Vs. Pranay Sethi, (2017) 16 SCC 680.***

- 10) On the other hand, learned counsel for the respondent No. 3/non-applicant No. 3 Insurance Company opposes the contention made by the counsel for the appellant. He further submits that multiplier of 17 has wrongly been applied and considering the age of the deceased i.e. 35 years, it should have been multiplier of 16. Learned counsel for the 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.
- 11) Heard, learned counsel for the parties and perused the material available on record.

- 12) No counter appeal has been filed by the respondents as submitted by counsel for the parties.
- 13) As regards income of the deceased, though the claimants have pleaded that the deceased was earning Rs. 3,500/- per month as Labour 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. 3,000/- per month as per minimum wages at the relevant time. Further, considering the 35 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:-

S.No.	Heads	Calculation (in rupees)
01.	Income of the deceased @ Rs 3000/- per month.	(Rs. 3000 x12) = Rs. 36,000/- per annum
02.	40% of (1) above to be added towards future prospects.	(Rs. 36000 + 14400) = Rs. 50,400 /-
03.	1/3 deduction towards personal and living expenses of the deceased	(Rs. 50400 - 16800) = Rs. 33,600/-
04.	Multiplier of 16 to be applied	(Rs. 33600 X16) = Rs. 5,37,600 /-
05.	Towards loss of estate, consortium and funeral expenses.	Rs. 70,000/-
	Total compensation	Rs. 6,07,600/-

Since the Tribunal has already awarded Rs. 4,15,000/-, after deducting the same from the above amount, the claimants are held entitled for additional compensation of Rs. 1,92,600/- with interest @ 6% per annum from the date of application till realization.

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

-Sd/-
(Gautam Chourdiya)
Judge