

AFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Miscellaneous Appeal (Civil) No. 1214 of 2015

1. Guhled Ram Kaushik, S/o Halalkhor Kaushik, aged about 54 years
2. Smt. Geeta Bai Kaushik, W/o Guhled Ram Kaushik, aged about 50 years
Both R/o Village Ashoga, Post – Ranitarai, Police Station- Ranitarai, District-
Durg (C.G.)

---- Appellants/Claimants

Versus

1. Mahabali Yadav, S/o Prabhu Ram Yadav, R/o House No. 82/22, Main Road, Anand Nagar, Raipur, Tahsil & District Raipur (C.G.)
(Driver of Vehicle Bus bearing registration No.CG-04/ZA/0951)
2. Maharshi Vidya Mandir, Alopri Nagar, In Front of Iskan Mandir, Tatibandh, Raipur, Tahsil & District Raipur (C.G.)
(Registered owner of Vehicle Bus bearing registration No. CG-04/ZA/0951)
3. The Magma General Insurance Company Limited, through the Branch Manager, Branch Office, Address- House No.3/Naya, Ground Floor, In Front of Rajkumar College, Raipur, District Raipur (C.G.)
(Insurer of Vehicle Bus Bearing registration No. CG-04/ZA/0951))

---- Respondents/Non-applicants

For Appellants	:	Shri Shivendu Pandya, Advocate
For Respondents 1 & 2	:	None
For Respondent No.3	:	Shri D.L. Dewangan Advocate appears on behalf of Shri Abhishek Sinha, Advocate

Hon'ble Shri Justice Gautam Chourdiya, J

Judgment on Board

20.03.2019

1. The present is an appeal under Section 173 of the Motor Vehicles Act, 1988 preferred by the Claimants/Appellants, seeking enhancement of the compensation awarded by the First Additional Motor Accident Claims Tribunal, Raipur, District Raipur (C.G.) vide award dated 26.03.2015 passed in Claim Case No. 54 of 2013.
2. The Claimants/Appellants, unfortunate mother and father aged about 50 years and 54 years, of deceased- Netram Kaushik aged about 28 years, claimed compensation of Rs.14,00,000/- by filing a claim petition under Section 166 of the Motor Vehicles Act, 1988 for death of their son- Netram Kaushik in the motor accident.
3. Brief facts of the case are that on 05.08.2013 at about 01:30 pm deceased- Netram Kaushik was going to Daganiya by his motorcycle and when he reached

near the Daganiya turning, the offending vehicle Bus bearing registration No. CG-04/ZA/0951 which was being driven by non-applicant No.1- Mahabali, owned by non-applicant No.2 and insured with non-applicant No.3, dashed the motorcycle of Netram Kaushik. As a result thereof, Netram Kaushik received severe injuries and died on the spot. At the time of accident, deceased- Netram Kaushik was working as a Shiksha Karmi at Primary School Amlidih, Raipur and was earning Rs.10,000/- per month.

4. The learned Tribunal, in the impugned award has awarded a compensation of Rs.6,07,000/- in favour of the Appellants/Claimants with interest @ 6% per annum from the date of application till its realization and has fastened liability upon the non-applicants jointly and severally to pay compensation to the Claimants.

5. As submitted by learned counsel for the parties, no counter appeal has been filed by the Respondents.

6. Learned counsel for the Appellants/Claimants submits that the deceased was unmarried person, he was a Shiksha Karmi and was a salary paid employee but no amount towards future prospect has been granted to the Claimants by the Tribunal. He further submits that the Tribunal has wrongly applied the multiplier of 10 on the basis of age of the parents of the deceased whereas it should have been multiplier of 17. Therefore, looking to the age of deceased i.e. 28 years at the time of accident, the Claimants are entitled for 50% future prospect. In support of above contention, reliance has been placed on the decisions of the Hon'ble Supreme Court in the matters of **National Insurance Co. Ltd. Vs. Pranay Sethi, (2017) 16 SCC 680** and **Smt. Sarla Verma and others Vs. Delhi Transport Corporation and another, (2009) 6 SCC 121**.

7. On the other hand, learned counsel for Respondent No.3/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.

8. Heard learned counsel for the parties and perused the material available on

record.

9. Considering the age of the deceased i.e. 28 years, the dependency, the nature of his job as he was a salary paid permanent employee and the decisions of the Hon'ble Supreme Court in *Pranay Sethi* and *Smt. Sarla Verma* (supra), the Claimants/Appellants are held entitled for compensation in the following manner:

Sl.No.	Heads	Calculation (In rupees)
1.	Income of the deceased (as considered by the Tribunal)	Rs.9,028/- per month i.e. Rs.1,08,336/- per annum
2.	50% towards future prospects added to annual income	(Rs.1,08,336/- + Rs.54,168/-) Rs.1,62,504/-
3.	50% deduction towards personal and living expenses of Deceased	(Rs.1,62,504/- – Rs.81,252/-) Rs.81,252/-
4.	Multiplier of 17 to be applied	Rs.81,252/- x 17 = Rs.13,81,284/-
5.	Loss of love and affection	Rs.20,000/- (as awarded by the Tribunal)
6.	Loss of estate	Rs.15,000/-
7.	Funeral expenses	Rs.15,000/-
	Total Compensation	Rs.14,31,284/-

10. Since the Tribunal has already awarded Rs.6,07,000/-, after deducting the same from the above amount, the Claimants/Appellants are held entitled for additional compensation of Rs.8,24,284/- with interest @ 6% per annum from the date of application till its realization. However, rest of the conditions of the impugned award shall remain intact.

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

12. No order as to costs.

Sd/-
(Gautam Chourdiya)
Judge