

AFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 69 of 2016**

1. Sita Dinkar widow of Mahendra Kumar Dinkar, aged about 23 years,
2. Sudharam Dinkar son of late Chhabli Dinkar, aged about 55 years,
3. Smt. Sheela Dinkar wife of Sutha Ram Dinkar, aged about 50 years,
4. Roshan Kumar Dinkar son of Sudharam Dinkar, aged about 29 years,

All are resident of village- Kachhar, Post- Aramsahi, Police Station- Masturi, District- Bilaspur (C.G.).

---- Appellants/Claimants

Versus

1. Sarvajeet Kumar son of Surendra Singh, aged about 26 years, Occupation- Driver, resident of Sonbarsa (Khaira), Police Station- Mali, District- Aurangabad (Bihar), new address- through Vehicle Owner, Nawal Kishore Singh son of late Vinod Narayan Singh, Resident of Rajkishore Nagar, near Aasha Aata Chakki, Police Station- Sarkanda, Tahsil and District- Bilaspur (C.G.) (Driver- Swaraj Majda Truck No. C.G.- 10/C/9550).
2. Nawal Kishore Singh son of late Vinod Narayan Singh, resident of Rajkishore Nagar, near Aasha Aata Chakki, Police Station- Sarkanda, Tahsil and District- Bilaspur (C.G.). (Owner- Swaraj Majda Truck No. C.G.- 10/C/9550)
3. Branch Manager, New India Insurance Company Limited, through its Branch Manager, Branch Office- rama Trade Center, in front of Rajeev Plaza, Old Bus Stand, Bilasur, Tahsil & District- Bilaspur (C.G.) (Insurer- Swaraj Majda Truck No. C.G.- 10/C/9550).

---- Respondents

For Appellants	:Shri A. L. Singroul, Advocate.
For Respondent No. 1 & 2.	:Shri Praveen K. Tulsyan, Advocate
For Respondent No.3 :	:Shri Aanand Gupta, Advocate

Hon'ble Shri Gautam Chourdiya, J
Judgment On Board

12.03. 2019

This appeal is filed by the claimants against the award dated 27.08.2015, passed by 5th Additional Motor Accident Claims Tribunal,

Bilaspur, (C.G.), in Claim Case No.160/2014 awarding total compensation of Rs. 18,86,480/-along with interest @ 6% per annum from the date of award till its realization, fastening liability on the non-applicant No. 3.

02. As per claim petition, on 23.11.2013, deceased Mahendra Kumar Dinkar, aged about 36 years, earning Rs.18,000 to 20,000/- per month as Multipurpose Health Worker (govt. employee) died in the motor vehicle accident caused due to rash and negligent driving of offending vehicle(Swaraj Mazda) bearing registration No. CG 10-C/9550 by non-applicant No.1-Sarvjeet Kumar. The offending vehicle is owned by non-applicant No. 2 & insured with Non-applicant No. 3/The New India Insurance Company.

03. On claim petition being filed by the claimants/wife, parents & brother of the deceased- Mahendra Kumar Dinkar under Section 166 of the Motor Vehicles Act, the Tribunal considering the evidence led by both the parties passed an award as mentioned above.

04. Learned counsel for the appellants/claimants submits that at the time of accident, the deceased as per his salary slip (Ex. P/15), was earning Rs. 17359/- per month as Multipurpose Health Worker (govt. employee) but the learned Tribunal has wrongly assessed his income as Rs. 15554/- (net salary) per month, therefore, it is prayed that it should be assessed as Rs. 17,359/-pm (Ex. P/15). He further submits that no amount towards future prospect was granted, looking to the age of deceased and job as permanent Govt. employee at the time of accident, 50 % future prospect should be added into the income of the deceased.

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. As submitted by the parties, no counter appeal has been filed by the Insurance Company.

06. Learned counsel for the respondent No. 1 & 2/driver & owner submits that learned Tribunal rightly considered all aspects of the matter and has rightly awarded the compensation to the claimants, therefore, there is no need to interfere with the award.

07. Learned counsel for the respondent No. 3/Insurance company submits that the learned Tribunal has rightly considered the income of the deceased as Rs. 15554/-pm as net salary and thereby after considering all the relevant aspects of the matters, rightly awarded compensation, which does not call for any interference in the instant appeal.

08. Heard learned counsel for the parties on appeal and perused the material available on record and the award impugned.

09. As regards the income of the deceased is concerned, looking to the pay slip i.e. Ex. P/15 at the time of accident the deceased was earning Rs. 17,359/- per month, therefore, the deceased as Government permanent employee the salary of deceased as Rs. 17359/- per month (by not deducting the allowances) can safely be considered. It is not disputed by both the parties as per service book (Ex. P/13) of the deceased, the date of birth of deceased is 01.08.1979 and the accident occurred on 23.11.2013, therefore, looking to the aforesaid document the deceased was aged about 36 years at the time of accident and considering the age, the multiplier of 15 would be applicable. Further, considering the dependency, the nature of his job 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:

Sl. No.	Heads	Calculation (in rupees)
01.	Income of the deceased @ Rs.17,359 /- per	Rs. 17,359 x12= Rs.

	month	2,08,308/- per annum
02.	50% of (1) above to be added towards future prospects.	Rs.2,08,308+ Rs. 1,04,154= Rs. 3,12,462/-
03.	After 1/3rd deduction towards personal and living expenses of the deceased	Rs.3,12,462 -1,04,154= Rs. 2,08,308/-
04.	Multiplier of 15 to be applied	Rs. 31,24,620/-/-
05.	Towards funeral expences, loss of Estate, & loss of consortium	Rs. 70,000/-
06.	Total compensation	Rs. 31,94,620/-

Since the Tribunal has already awarded Rs.18,86,480/-, after deducting the same from the above amount, the claimants are held entitled for additional compensation of Rs.13,08,140/- with interest @ 6% per annum from the date of award till its realization.

10. In the result, the appeal is allowed in part with modification in the impugned award to the above extent. However, rest of the conditions of the impugned award shall remain intact.

Sd/-

(Gautam Chourdiya)

Judge