

AFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 473 of 2016**

1. Chandra Prabha Devi W/o Late Gajendra Singh Rajput, Aged About 26 Years
2. Kumar Chandani D/o Late Gajendra Singh Rajput, Aged About 10 Years
3. Himanshu S/o Late Gajendra Singh Rajput, Aged About 7 Years
4. Ganpat Singh S/o Sita Ram Rajput, Aged About 70 Years

Appellant Nos. 2 to 3 are minor through legal guardian his Mother Chandra Prabha Devi.

All are R/o Village Shardha Thana And Tahsil- Lormi District Mungeli, Chhattisgarh.

---Appellants

Versus

1. Vijay Shankar S/o Ram Singh, Aged About 24 Years Occupation- Driver Of Offending Vehicle Tawera Car, R/o Village Krhi Thana And Tahsil District Mungeli, Chhattisgarh.
2. Smt. Sagar Bai W/o Anuj Ram Mahilang, Aged About 57 Years Occupation- Owner Of Offending Vehicle Tawera Car R/o Village Karhi Thana And Tahsil District Mungeli, Chhattisgarh.
3. Maigma H.D.I. General Insurance Company Limited, Seventh Floor Meera Tower, D.N.27 Sector 4th West Side Sault Lek City Calcutta, Maigma House 24 Park Strit Calcutta Pashchim Bangal.

---- Respondent

For Appellants	:	Shri A.L. Singroul, Advocate.
For Respondent No.3	:	Shri Rohitashva Singh, Advocate.

Hon'ble Shri Gautam Chourdiya, J
Judgment On Board

12.04. 2019

This appeal is by the claimants against the award 08.02.2016 passed by Additional Motor Accident Claims Tribunal, Mungeli, C.G. in

Claim Case No.37/2013 awarding total compensation of Rs.7,30,000/- with interest @ 6 per annum from the date of application till realization, fastening liability on the Insurance Company along with non-applicants jointly and severally.

02. As per claim petition, on 10.05.2013 deceased Gajendra Singh Rajput, aged about 29 years, earning Rs.12,000/- per month as Electrician, died in the motor vehicular accident caused due to rash and negligent driving of Tavera Car bearing registration no.CG10-F-2866 by non-applicant No.1/respondent no.1. At the time of accident, offending vehicle was owned by non-applicant no.2/respondent no.2 and insured with non-applicant no.3/respondent no.3.

03. On claim petition being filed by the claimants i.e. wife, children and father of deceased under Section 166 of the Motor Vehicles Act for compensation to the tune of Rs.30,00,000/-, the Tribunal considering the evidence led by both the parties passed an award as mentioned in para 1 of this judgment.

04. Learned counsel for the appellants/claimants submits he has raised various grounds in his memo of appeal, however, he is not pressing all those grounds and is assailing the award on the following grounds :

(i) that 1/3rd deduction towards personal and living is also against the law and it should have been $\frac{1}{4}^{\text{th}}$.

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

(iii) 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.**

05. 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 but erred in applying multiplier of 18 whereas it should have been 17 looking to the age of the deceased i.e. 28 years.

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

07. In this case, Tribunal has not awarded any amount towards future prospect to the claimants whereas in view of decision in Pranay Sethi (supra), considering the fact that the deceased was an Electrician, and was below the age of 40 years, 40% of his annual earning ought to have been added thereto towards future Prospect. Likewise, the Tribunal has committed an error in applying multiplier of 18. However, looking to the age of the deceased i.e. 28 years, multiplier of 17 should have been applied. Further, considering the income of the deceased i.e. Rs.5,000/-, age of the deceased i.e. 28, the dependency i.e. 4 persons, 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.5,000/-	Rs.60,000/- per annum

	per month (as assessed by the Tribunal)	
02.	40% of (i) above to be added towards future prospects.	Rs.24,000/- Rs.60,000 + Rs.24,000 = Rs.84,000/-
03.	1/4 deduction towards personal and living expenses of the deceased	Rs.21,000/- Rs.84,000 – Rs.21,000 = Rs.63,000/-
04.	Multiplier of 17 to be applied	Rs.10,71,000/-
05.	Towards loss of estate, loss of spousal consortium and funeral expenses	Rs.70,000/-
	Total compensation	Rs.11,41,000/-

Since the Tribunal has already awarded Rs.7,30,000/-, after deducting the same from the above amount, the claimants are held entitled for additional compensation of Rs.4,11,000/- with interest @ 6% per annum from the date of application till realization. However, rest of the conditions of the impugned award shall remain intact.

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

Sd/-
(Gautam Chourdiya)
Judge

Akhilesh