

AFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 1733 of 2018**

1. Smt. Sumati Bai W/o Late Amar Das Aged About 43 Years
2. Gandhi Das S/o Late Amar Das Aged About 24 Years

Both are Caste Of Nageshya, R/o Village- Khaddhowa P.S. And
Tahsil- Batouli District- Surguja, Chhattisgrah.

3. Ku. Urmila D/o Late Amar Das Aged About 16 Years
4. Prakash Das S/o Late Amar Das Aged About 14 Years
5. Ku. Kamlapati D/o Late Amar Das Aged About 11 Years
6. Bharat S/o Late Amar Das Aged About 8 Years

Appellant Nos. 3 to 6 are minor Through Natural Gaurdian Mother
Smt. Sumati Bai (Appellant No. 1), All are R/o Village Tirang P.S.
And Tahsil-Batouli District- Surguja, Chhattisgarh.

----Appellants/claimants**Versus**

1. Alexendar Tirki S/o Bisent Tirki Aged About 36 Years Occupation-
Driver R/o Village- Juna Mangari Permanent R/o Dhelsara P.S.
And Tahsil Sitapur, District- Surguja, Chhattisgrh.
2. Ajay Kumar Agrawal S/o Shivnarayan Agrawal Occupation-
Owner Of Vehicle R/o Near Sadar Road Jai-Stambh Chowk P.S.
And Tahsil- Ambikapur, District- Surguja, Chhattisgarh.
3. Branch Manager The Oriental Insurance Company Ltd
Manendragarh Road Near Ambedkar Chowk P.S. And Tahsil
Ambikapur, District- Surguja, Chhattisgarh.

---- Respondents

For Appellants
For Respondent No.3

Shri A.N. Pandey, Advocate.
Shri Anil Gulati, Advocate.

Hon'ble Shri Justice Gautam Chourdiya**Order On Board**

23/01/2019

1. This appeal is by the claimants against the award dated 02.08.2014 passed by Motor Accident Claims Tribunal, Ambikapur, District Surguja, C.G. in Claim Case No.42/13 awarding total compensation of Rs.5,92,000/- with interest @ 06 per annum from the date of application till realization, fastening liability on the insurance company.
2. As per claim petition, on 13.12.2012 deceased Amardas, aged about 45 years, earning Rs.10,000/- per month, running a hotel, died in the motor vehicular accident caused due to rash and negligent driving of vehicle Truck bearing registration no. CG15/AC/1124 by non-applicant No.1.
3. On claim petition being filed by the claimants 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 appellants/claimants submits as under:
 - (i) that income of the deceased has wrongly been considered by the Tribunal as Rs.4,500/- per month whereas it should have been Rs.10,000/- per month.
 - (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. No amount towards loss of filial

and other consortium has been granted.

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, Magma General Insurance Co. Ltd. Vs. Nanuram @ Chuhru Ram and others in Civil Appeal No.9581/2018 arising out of SLP (Civil) No.3192/2018.***

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. Heard learned counsel for the parties and perused the material available on record.
7. So far as the income of the deceased is concerned, the claimants have pleaded that the deceased running a hotel and thereby earning Rs.10,000/- per month. But learned Tribunal considered the income of the deceased at Rs.4,500/- per month as per minimum wages at the relevant time, which is just and proper. However, the Tribunal has not awarded any amount towards future prospect whereas considering the age of the deceased 45 years and his nature of job 25% of his annual income ought to have been added

thereto towards future prospect in the light of the Hon'ble Supreme Court in **National Insurance Co. Ltd Versus Pranay Sethi** reported in **(2017) 16 SCC 680**. Likewise, the amount awarded by the Tribunal under the conventional heads also deserves to be enhanced to Rs. 70,000/-. Further, considering the age of the deceased, the dependency, the nature of his job and the decisions of the Hon'ble Supreme Court in *Pranay Sethi, Magma General Insurance Co. Ltd.* (supra), the claimants are held entitled for compensation in the following manner:

SI No.	Heads	Calculation (in rupees)
1.	Income of the deceased @ Rs.4,500/- per month	Rs.4,500/- x 12 = Rs.54,000/-per annum
2.	25% of to be added towards future prospects.	Rs.13,500/- Rs.54,000 + Rs.13,500/- = Rs.67,500/-
3.	1/4th deduction towards personal and living expenses of the deceased	Rs.16,875/-
4.	Annual Loss of dependency	Rs.67500/- – Rs.16,875/- = Rs. 50,625/-
5.	Multiplier of 14 to be applied	Rs.50,625/- x 14 = Rs. 7,08,750/-
6.	Towards conventional heads (loss of estate, loss of spousal consortium)	Rs. 70,000/-
7.	Towards loss of filial consortium to claimants no. 2 to 6 @ 10,000/- each.	Rs. 50,000/-

	Total Compensation	Rs. 8,28,750/-
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8. Since the Tribunal has already awarded Rs.5,92,000/-, after deducting the same from the above amount, the claimants are held entitled for additional compensation of Rs.2,36,750/- 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**

Akhilesh