

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 1897 of 2018**

1. Dinesh, A/a 45 years, S/o Late Deen Masih.
2. Reeta, A/a 43 years, W/o Dinesh Masih.

Both R/o P.O. Vishrampur, P.S. Simga, District- Baloda Bazar-
Bhatapara (C.G.).

---- Appellant/Claimant**Versus**

1. Santosh Kumar, S/o Lakhan Lal Sahu, R/o Gandhi Nagar, Murra Bhatti, (Near Hariom Kirana Dukan), P.S. Gudhiyari, Distt.- Raipur (C.G.).
2. Tomesh, S/o Santosh Kumar Sahu, R/o Gandhi Nagar, Murra Bhatti, (Near Hariom Kirana Dukan), P.S. Gudhiyari, Distt.- Raipur (C.G.)
3. United India Insurance Company Ltd. Through Divisional Manager (Division No. 1), United India Insurance Company Ltd., Kutchari Chowk, Raipur, The. & Distt.- Raipur (C.G.).

---- Respondents

For Appellants	:	Shri Arvind Shrivastava, Advocate.
For Respondent No.3	:	Shri H. B. Agrawal, Sr. Advocate with Shri Pankaj Agrawal, Advocate.

Hon'ble Shri Gautam Chourdiya, J.**Judgment On Board****16.01. 2019**

This appeal is by the claimants against the award dated 21.08.2018, passed by the 3rd Motor Accident Claim Tribunal, Raipur in

Claim Case No.495/2016 awarding total compensation of 7,86,000/- with interest @ 7.5% per annum from the date of application till realization, fastening liability on the respondent Nos. 1 to 3/non-applicants jointly and severely.

02. As per claim petition, on 04.06.2016 at about 9.30 p.m. deceased Dipesh Masih, 17 years, was earning Rs.6,000/- per month as waiter working in a Dhaba died in the motor vehicle accident caused due to rash and negligent driving of offending vehicle bearing registration No. CG04HD/8017 by non-applicant No.1-Santosh Kumar.

03. On claim petition being filed by the claimants/parents of the deceased 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 as under:

(i) that income of the deceased has wrongly been considered by the Tribunal as Rs.5,000/- whereas it should have been Rs 6,000/- as per minimum wages applicable at the relevant time i.e. in the year of 2016.

(iii) that multiplier of 13 has been applied and considering the age of the deceased, by the tribunal is justified and no need to be interference in this regard.

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

(v) 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 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 ***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. 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.

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 which needs no interference by this Court.

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

07. As regards income of the deceased, the claimants have pleaded that the deceased was earning Rs.6,000/- per month as waiter working in a *dhaba*, and as per minimum wages applicable at the relevant time i.e. in the year of 2016, therefore, in these circumstances, income of the deceased is considered as Rs.6,000/- per month as per minimum wages at the relevant time. Further, considering the age of the deceased, the dependency, the nature of his job and keeping in view the decisions of the Hon'ble Supreme Court in **Sarla Verma, Pranay Sethi, Magma General Insurance Co. Ltd. (supra)**, the claimants are held entitled for compensation in the following manner:

Sl. No.	Heads	Calculation (in rupees)
01.	Income of the deceased @ Rs 6,000/- per month.	72,000/- per annum
02.	40% of (i) above to be added towards future prospects.	72,000+28800=Rs. 100,800/-
03.	1/2 deduction towards personal and living expenses of the deceased	Rs. 50400/-
04.	Multiplier of 18 to be applied	Rs 907,200/-
05.	Towards loss of estate, loss of filial consortium and funeral expenses	70,000/-=

	Total compensation	Rs. 9,77,200/-
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Since the Tribunal has already awarded Rs.7,86,000/-, after deducting the same from the above amount, the claimants are held entitled for additional compensation of Rs.1,91,200 with interest @ 7.5% 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

Amita