



2026:CGHC:26531

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MAC No. 218 of 2020

1 - Smt. Ratna Banchor W/o Late Shri Ramkrishna Banchor Aged About 49 Years All Residing At Gram Mohanda, Post Amarkot, Tahana/tahsil - Saraipali, District - Mahasamund, Chhattisgarh,
District : Mahasamund, Chhattisgarh

2 - Pramod Kumar Banchor S/o Late Shri Ramkrishna Banchor Aged About 29 Years All Residing At Gram Mohanda, Post Amarkot, Tahana/tahsil - Saraipali, District - Mahasamund, Chhattisgarh,
District : Mahasamund, Chhattisgarh

3 - Kumari Jyoti Banchor D/o Late Shri Ramkrishna Banchor Aged About 27 Years All Residing At Gram Mohanda, Post Amarkot, Tahana/tahsil - Saraipali, District - Mahasamund, Chhattisgarh

4 - Smt. Sheela Devi Banchor W/o Kartikram Banchor Aged About 72 Years All Residing At Gram Mohanda, Post Amarkot, Tahana/tahsil - Saraipali, District - Mahasamund, Chhattisgarh, District : Mahasamund, Chhattisgarh

--- Appellant(s)

versus

1 - Santlal Patel S/o Hemnath Patel Aged About 38 Years R/o Gram Darrabhata, Post Saraipali, Thana/tahsil Saraipali, District Mahasamund , Chhattisgarh (Driver Of Vehicle No. C.G. -09-E-3236),

District : Mahasamund, Chhattisgarh

2 - Virendra Bagh S/o Harishankar Bagh Aged About 40 Years R/o Gram Darrabhata, Post Saraipali, Thana/tahsil Saraipali, District Mahasamund , Chhattisgarh (Owner Of Vehicle No. C.G. -09-E-3236),

District : Mahasamund, Chhattisgarh

3 - Branch Manager/divisional Manager Bajaj Allianz General Insurance Company Limited, Shiv Mohan Bhawan, Vidhansabha Road, Pandri, Raipur, Chhattisgarh. (Insurer Of Vehicle No. C.G.-09-E-3236),

District : Raipur, Chhattisgarh

--- Respondent(s)

For Appellant(s) : Mr. Suraj Patel on behalf of Mr. Shobhit Mishra, Advocates

For Respondent(s) : Mr. Sangeet Kumar Kushwaha, Advocate

No. 3

MAC No. 109 of 2020

1 - Bajaj Allianz General Insurance Company Limited Shiv Mohan Bhawan, Vidhan Sabha Road, Pandri, Raipur District Raipur Chhattisgarh (Insurer Of Tractor No. C.G. 06-E-3236), District : Raipur, Chhattisgarh

---Appellant(s)

Versus

1 - Smt. Ratna Banchhor Wd/o Late Ram Krishna Banchhor Aged About 49 Years Resident Of Village Mohanda, Post Amarkot, Thana And Tahsil Saraipali, District Mahasamund Chhattisgarh (Claimants), District : Mahasamund, Chhattisgarh

2 - Pramod Kumar Banchhor S/o Late Ram Krishna Banchhor Aged About 29 Years Resident Of Village Mohanda, Post Amarkot, Thana And Tahsil Saraipali, District Mahasamund Chhattisgarh (Claimants), District : Mahasamund, Chhattisgarh

3 - Kumari Jyoti Banchhor D/o Late Ram Krishna Banchhor Aged About 27 Years Resident Of Village Mohanda, Post Amarkot, Thana And Tahsil Saraipali, District Mahasamund Chhattisgarh (Claimants), District : Mahasamund, Chhattisgarh

4 - Smt. Shila Devi Banchhor W/o Kartik Banchhor Aged About 72 Years Resident Of Village Mohanda, Post Amarkot, Thana And Tahsil Saraipali, District Mahasamund Chhattisgarh (Claimants), District : Mahasamund, Chhattisgarh

5 - Santlal Patel S/o Hemnath Patel Aged About 38 Years Resident Of Village- Darrabhanta, Post- Saraipali, Thana And Tahsil- Saraipali, District- Mahasamund Chhattisgarh (Driver Of Tractor No. C.G. 06-E-3236), District : Mahasamund, Chhattisgarh

6 - Virendra Bagh S/o Harishankar Bagh Aged About 40 Years Resident Of Village- Darrabhanta, Post- Saraipali, Thana And Tahsil- Saraipali, District- Mahasamund Chhattisgarh (Owner Of Tractor No. C.G. 06-E-3236), District : Mahasamund, Chhattisgarh

--- **Respondent(s)**

For Appellant(s) : Mr. Sangeet Kumar Kushwaha, Advocate

For Respondent(s) : Mr. Suraj Patel on behalf of Mr. Shobhit

No. 1 to 4 Mishra, Advocates

SB - Hon'ble Shri Justice Sanjay K. Agrawal**Judgment on Board****30.06.2026**

1. Since both of these appeals have arisen out of a common accident and since common question of law and fact is involved in both of these appeals, therefore, they have been clubbed together, heard together and are being decided by this common judgment.
2. MAC/109/2020 has been preferred by the appellant/Insurance Company whereas MAC/218/2020 has been preferred by the appellants/claimants against the impugned award dated 17/10/2019 passed by learned Additional Motor Accident Claims Tribunal, Saraipali, District Mahasamund in Claim Case No. 46/2018 whereby compensation of Rs. 82,99,639/- has been awarded in favour of the claimants for the death of Ramkrishna Banchor, aged about 50 years, and the liability of payment of compensation has been fastened upon the Insurance Company.
3. Mr. Sangeet Kushwaha, learned counsel for the appellant/Insurance Company in MAC/109/2020, would submit that since the son of deceased namely Pramod Kumar Banchor was granted compassionate appointment, therefore,

he does not have the right to claim compensation and the claim case as filed by him (being one of the claimants) is liable to be dismissed in toto.

4. Mr. Suraj Patel, learned counsel for the appellants/claimants in MAC/218/2020, would submit that Premanand Das (A.W.-2), who works as Accountant at the Government Higher Secondary School, Saraipali, has proved the salary slip of the deceased in the month of July, 2018 (Ex. A/7) and has stated that the gross salary of the deceased was Rs. 84,622/-, however, the Claims Tribunal has taken the gross salary of the deceased as Rs. 81,500/- per month, thus, the amount of compensation as awarded by the Claims Tribunal is liable to be enhanced.
5. I have heard learned counsel for the parties, considered their rival submissions made herein-above and went through the records with utmost circumspection.

MAC/109/2020 :-

6. So far as the question of grant of compensation to the person who has been granted compassionate appointment is concerned, it is no longer res integra and has been decided by the Supreme Court in the matter of **Vimal Kanwar and Others v. Kishore Dan and Others**¹ in which the question

¹ (2013) 7 SCC 476

was framed in paragraph 20 and it was answered in paragraph 21 of the judgment, which states as under :-

“20. The second issue is “whether the salary receivable by the claimant on compassionate appointment comes within the periphery of the Motor Vehicles Act to be termed as ‘pecuniary advantage’ liable for deduction”.

21. “Compassionate appointment” can be one of the conditions of service of an employee, if a scheme to that effect is framed by the employer. In case, the employee dies in harness i.e. while in service leaving behind the dependants, one of the dependants may request for compassionate appointment to maintain the family of the deceased employee who dies in harness. This cannot be stated to be an advantage receivable by the heirs on under a statute occasioned on account of accidental death. Compassionate appointment may have nexus with the death of an employee while in service but it is not necessary that it should have a correlation with the accidental death. An employee dies in harness even in normal course, due to illness and to maintain the family of the deceased one of the dependants may be entitled for compassionate appointment but that cannot be termed as “pecuniary advantage” that comes under the periphery of the Motor Vehicles Act and any amount received on such appointment is not liable for deduction for determination of compensation under the Motor Vehicles Act.”

7. As such, in view of the aforesaid principle of law laid down by their Lordships of the Supreme Court in the matter of **Vimal Kanwar** (supra), the contention raised on behalf of the appellant/Insurance Company that since son of the deceased namely Pramod Kumar Banchor has already been

granted compassionate appointment, therefore, he would not be entitled to compensation, is hereby rejected.

MAC/218/2020 :-

8. So far as the appeal of the appellants/claimants with regard to enhancement of compensation is concerned, income of the deceased has duly been proved by Premanand Das (A.W.-2), who works as Accountant at the Government Higher Secondary School, Saraipali, and has proved the salary slip of the deceased in the month of July, 2018 (Ex. A/7) and has stated that the gross salary of the deceased was Rs. 84,622/-.

9. Thus, this Court is computing the compensation as stated below :-

S. No.	Heads	Compensation awarded by Tribunal	Compensation awarded by this Court
1.	Income	Rs. 81,500/- x 12 = Rs. 9,78,960/- income	Rs. 84,622/- x 12 = Rs. 10,15,464/- taxRs. 1,20,654/- = Rs. 8,94,810/-
2.	Future Prospect	Rs. 8,67,419/- (+) 15%	i.e.(+) 15% i.e. Rs. 1,30,112/- =Rs. 1,34,221/- =
3.	Deduction	Rs. 9,97,531/- (-) $\frac{1}{4}$	Rs. 10,29,031/- i.e.(-) $\frac{1}{4}$ i.e.
4.	Multiplier	Rs. 2,49,382/- Rs. 7,48,149/- (x) 11	=Rs. 2,57,258/- = Rs. 7,71,773/- =(x) 11 =

		Rs. 82,29,639/-	Rs. 84,89,503/-
5.	Loss of Estate	Rs. 15,000/-	Rs. 15,000/-
6.	Funeral Expenses	Rs. 15,000/-	Rs. 15,000/-
7.	Loss of Consortium	Rs. 40,000/-	Rs. 48,000/- x 3 =
			Rs. 1,44,000/-
	Total	Rs. 82,99,639/-	Rs. 87,03,503/-

10. In view of the aforesaid analysis, the amount of compensation of Rs. 82,99,639/- awarded by the Claims Tribunal is enhanced to Rs. 87,03,503/-. Hence, the claimants are held entitled for an additional compensation of **Rs. 4,03,864/-**. Insurance Company is directed to deposit the amount of compensation as enhanced by this Court within a period of 3 months from the date of receipt of copy of this order. The additional amount of compensation shall carry interest @ 6% *per annum* from the date of filing of claim application before the Tribunal i.e. 06/10/2018 till its realization. Rest of the conditions of the impugned award shall remain intact.

11. Accordingly, the impugned award is modified and the instant appeal is allowed to the extent indicated herein-above.

Sd/-
(Sanjay K. Agrawal)
Judge

Harneet