



2026:CGHC:18790



2026:CGHC:18790

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MAC No. 545 of 2026

1 - Tata A.I.G. General Insurance Company Limited Through Its Legal Managar, Present And Correct Address - Office No.403, 4th Floor, Db, City Corporate Park, Flat No.1, Block No.9, Rajbandha Maidan, Raipur, Chhattisgarh. (Insurer)

... Appellant

versus

1 - Sangeeta Bai Kanwar W/o Late Budhram Aged About 35 Years R/o Village Teitola, Thana - Gatapar (Jungle), District - Khairagarh-Chhuikhadan-Gandai, Chhattisgarh. (Claimants)

2 - Likhita Kanwar D/o Late Budhram Aged About 14 Years R/o Village Teitola, Thana - Gatapar (Jungle), District - Khairagarh-Chhuikhadan-Gandai, Chhattisgarh. (Res. No. 2 To 4 Are Being Minor Represented Through Legal Guardian Mother Sangeeta Bai Kanwar)

3 - Sandhya Kanwar S/o Late Budhram Aged About 9 Years R/o Village Teitola, Thana - Gatapar (Jungle), District - Khairagarh-Chhuikhadan-Gandai, Chhattisgarh. (Res. No. 2 To 4 Are Being Minor Represented Through Legal Guardian Mother Sangeeta Bai Kanwar)

4 - Himashu Kanwar S/o Late Budhram Aged About 9 Years R/o Village Teitola, Thana - Gatapar (Jungle), District - Khairagarh-Chhuikhadan-Gandai, Chhattisgarh. (Res. No. 2 To 4 Are Being Minor Represented Through Legal Guardian Mother Sangeeta Bai Kanwar)

5 - Rajni Bai Kanwar S/o Aliyar Aged About 70 Years R/o Village Teitola, Thana - Gatapar (Jungle), District - Khairagarh-Chhuikhadan-Gandai, Chhattisgarh.

6 - Sukhram Kanwar S/o Aliyar Aged About 42 Years R/o Village Teitola, Thana - Gatapar (Jungle), District - Khairagarh-Chhuikhadan-Gandai, Chhattisgarh.

7 - Shankar Lal Yadav S/o Ram Lal Yadav Aged About 36 Years R/o Dhaba Post - Singarpur, P.S. - Thelkadih, District - Khairagarh-Chhuikhadan-Gandai, Chhattisgarh.

8 - Ramesh Yadav S/o Lakhan Yadav Aged About 43 Years R/o Village Telitola, Police Station - Gatapar (Jungle), District - Khairagarh-Chhuikhadan-Gandai, Chhattisgarh.

... Respondent(s)

For Appellant : Ms. Harleen Kaur Khanuja on behalf of Mr. Sourabh Sharma, Advocate

For Respondent Nos. 1 : Mr. Praveen Dhurandhar, Advocate

to 6



For Respondent No. 7 & : Ms. Anushka Tripathi, Advocate

8

Hon'ble Shri Justice Sachin Singh Rajput,

Order on Board

23.04.2026

1. Heard on I.A. No. 1 application for condonation of delay of 34 days in filing the appeal.
2. On due consideration and for the reasons stated in the application, the delay of 34 days in filing the appeal is hereby condoned.
3. The present appeal under Section 173 of the Motor Vehicles Act, 1988 (for short “the MV Act”) has been preferred by the appellant/Insurance Company, being aggrieved by the award dated 02.09.2025 passed by the learned 5th Additional Motor Accident Claims Tribunal, Durg, District Durg (C.G.) (for short “learned Tribunal”) in MACT No. 59/2025.
4. By the impugned award, the learned Tribunal has awarded compensation of Rs. 16,85,456/- to respondent Nos. 1 to 6/claimants on account of the death of Budhram Kanwar who succumbed to injuries sustained in a motor accident that occurred on 13.10.2024 due to rash and negligent driving of the offending vehicle (motorcycle) bearing Registration No. CG-08-AP-8625, driven by respondent No. 7, owned by respondent No. 8 and insured with the appellant/Insurance Company.
5. As per the pleadings in the claim application, the deceased Budhram Kanwar was riding his motorcycle bearing Registration No. CG-08-Y-6938 along with his son Himanshu Kunwar as a pillion rider and was proceeding towards Pandadaah. When he reached near Dhaurabhanta Canal, respondent No. 7 driving the offending vehicle in a rash and negligent manner dashed into the motorcycle of the deceased, resulting in grievous injuries which ultimately led to his death in the hospital. It was further pleaded that the deceased was about 39 years of age and was working as a



mason, earning approximately Rs. 15,000/- per month. Therefore, compensation of Rs. 25,91,302/- was awarded to the respondent Nos. 1 to 6/claimants.

6. Respondent Nos. 7 and 8 filed their written statement denying the averments made in the claim application and contended that there was no negligence on their part, and that the accident occurred due to the negligence of the deceased himself. The appellant/Insurance Company also denied the averments and pleaded that the driver of the offending vehicle did not possess a valid and effective driving licence and that there was a breach of the terms and conditions of the insurance policy.
7. On the basis of the aforesaid pleadings, the learned Tribunal framed six issues and upon appreciation of the evidence available on record decided the same in favour of respondent Nos. 1 to 6/claimants and awarded the aforesaid compensation.
8. Learned counsel for the appellant/Insurance Company submits that the learned Tribunal in the absence of documentary evidence has assessed the monthly income of the deceased at Rs. 12,118/- which is on the higher side. It is further submitted that the offending vehicle was not involved in the accident and has been falsely implicated with a view to obtaining compensation. It is, therefore, prayed that the impugned award may be set aside or the compensation amount may be suitably reduced.
9. Per contra, learned counsel for respondent Nos. 1 to 6/claimants supports the impugned award and submits that just and proper compensation has been awarded and no interference by this Court is warranted.
10. Learned counsel for respondent Nos. 7 and 8 submits that the accident occurred due to the negligence of the deceased himself and the liability to pay compensation rests upon the Insurance Company.
11. I have heard learned counsel for the parties considered their rival submissions, and perused the record.



12. The first contention of learned counsel for the appellant is that the offending vehicle was not involved in the accident. However, it appears that no such specific plea was taken in the written statement. Issue No. 1 was framed with regard to rash and negligent driving of the offending vehicle by respondent No. 7. The learned Tribunal, upon due appreciation of the oral and documentary evidence including the criminal case records has recorded a categorical finding on negligence in favour of respondent Nos. 1 to 6/claimants. Relying upon the judgment of Hon'ble Supreme Court in case **Bimla Devi and others Vs. Himachal Road Transport Corporation and others** reported in **(2009) 13 SCC 530** in which it has been held by the Supreme Court as under:

“15. In a situation of this nature, the Tribunal has rightly taken a holistic view of the matter. It was necessary to be borne in mind that strict proof of an accident caused by a particular bus in a particular manner may not be possible to be done by the claimants. The claimants were merely to establish their case on the touchstone of preponderance of probability. The standard of proof beyond reasonable doubt could not have been applied. For the said purpose, the High Court should have taken into consideration the respective stories set forth by both the parties.”

Upon due consideration, this Court finds that the finding recorded by the learned Tribunal is based on proper appreciation of evidence and does not warrant interference. Accordingly, this contention is rejected.

13. The second contention relates to the assessment of the monthly income of the deceased at Rs. 12,118/-. This submission also deserves to be rejected. The deceased was aged about 39 years and was working as a mason. Though six claimants were initially shown, the learned Tribunal has found five dependents, the widow aged about 35 years, two minor daughters aged about 14 and 12 years, one minor son aged about 9 years and the widowed mother aged about 70 years.



14. Considering the date of accident and the number of dependents, this Court does not find the assessment of income to be excessive or unreasonable. The amount awarded cannot be said to be unjust, particularly in view of the financial needs of the dependent family members. Accordingly, this contention is also rejected.

15. Consequently, the appeal fails and is hereby dismissed. All pending applications, if any, shall also stand dismissed.

Sd/-

(Sachin Singh Rajput)
Judge

H.Ansari