2026:CGHC:498

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

<u>MAC No. 1004 of 2017</u>

1 - Shabir Ansari S/o Late Musafir Ansari, Aged About 55 Years R/o Near Budhwari Bazar, Dipika, Tahsil Katghora District Korba Chhattisgarh.

2 - Sabina Khatun, D/o Shabir Ansari, Aged About 16 Years (Minor) through her natural guardian father Shabir Ansari S/o Late Musafir Ansari, Aged About 55 Years, R/o Near Budhwari Bazar, Dipika, Tahsil Katghora District Korba Chhattisgarh.

... Appellants

versus

1 - Sunil Kumar Pandey S/o Parmeshwar @ Jagdev Pandey, Aged About 35 Years R/o Saritudih, Police Station Bharmari Bokaro, Jharkhand.

2 - Suraj Kumar Chanchal, S/o Shailendra Kumar Munidar, Aged About 30 Years R/o Qt. No. B 52, Street 12, Sector 9, A B S City, Bokaro Jharkhand

3 - Oriental Insurance Company Ltd. Through Divisional Manager, Oriental Insurance Company Limited, Divisional Officer, Gitanjali Bhawan, Main Road, Korba District Korba Chhattisgarh.

... Respondents

(Cause-title taken from Case Information System)

For Appellants	**:**	None
For Respondent No.3	**:**	Mr. Raj Awasthi, Advocate

Hon'ble Shri Amitendra Kishore Prasad, Judge

Judgment on Board

05.01.2026

1. The present appeal is directed against the award dated 06.12.2016 passed by the learned Additional Judge to the Court of Additional Motor Accident Claims Tribunal, Katghora, District Korba (C.G.) (hereinafter referred to as the 'Claims Tribunal') in Claim Case No.85/2010, whereby compensation of Rs.3,42,357/- with interest at the rate of 9% per annum from the date of filing of the claim application till its realization, has been awarded in favour of claimants on account of death of one Asgar Ansari and liability to satisfy the award has been fastened upon non-applicant No.3/Insurance Company.

2. Briefly stated facts of the case are that an accident occurred at about 2:00 a.m. on 24.04.2007 on the Bilaspur–Raipur main road between villages Chanderi and Damakheda, within the jurisdiction of Police Station Simga, District Raipur. The accident involved truck bearing registration No. JH-09-C-6511 (for short, 'offending vehicle'), allegedly driven rashly and negligently by non-applicant No. 1, which lost control, came on the wrong side of the road and collided head-on with Truck bearing registration No. CG-12-C-1937 being driven by Asgar Ansari alias Bablu Ansari. As a result of the collision, Asgar Ansari sustained serious injuries and was immediately admitted to Dr. B.R. Ambedkar Hospital, Raipur, where he succumbed to his injuries during treatment on 26.04.2007.

3. The deceased was the son of claimant Nos. 1 and 2 and the brother of claimant No. 3. Owing to his untimely death, the claimants have been deprived of his love and affection and are facing severe financial hardship and mental agony. It is stated that a sum of approximately Rs.50,000/- was incurred towards his medical treatment. At the time of the accident, the deceased was residing at Budhwari Bazar, Dipka, and was employed as a driver on truck No. CG-12-C-1937 belonging to Mrs. Hoshila Pandey, operated under Pandey Road Lines. The claimants have filed the claim petition before the learned Claims Tribunal seeking total compensation of Rs.33,50,000/- under various heads along with interest at the rate of 18% per annum from the date of application till its realization, alleging that the accident and the consequential death of Asgar Ansari occurred solely due to the rash and negligent driving of the offending vehicle.

4. Upon appreciation of the pleadings, as well as oral and documentary evidence brought on record by the respective parties, the learned Claims Tribunal awarded compensation of Rs.3,42,357/- along with interest at the rate of 9% per annum from the date of filing of the claim petition till its realization and fastened the liability to satisfy the award upon the Insurance Company.

5. Learned counsel for the Insurance Company submits that the impugned award is illegal and unsustainable, having been passed without proper appreciation of evidence. The accident occurred due to the sole or contributory negligence of the deceased, who was driving without a valid and effective licence and in violation of statutory provisions. The offending vehicle was falsely implicated, as borne out from the FIR lodged against the deceased. The claim petition was bad for non-joinder of necessary parties and there were clear breaches of policy conditions. The Tribunal erred in fastening liability on the appellant and in awarding excessive compensation. The award, therefore, deserves to be set aside or suitably reduced.

6. I have heard learned counsel for the Insurance Company and perused the record with utmost circumspection.

7. From perusal of the impugned award, it is found that the Claims Tribunal has committed an error in awarding compensation towards loss of dependency, loss of consortium and other conventional heads.

8. Before the learned Claims Tribunal, claimants have pleaded income of deceased to Rs.8,000/- per months by working as Driver, but has not produced any evidence with respect to salary or income of deceased. The claimants have failed to prove income as pleaded in their claim application, therefore, in the facts and circumstances of case, income of deceased is to be assessed on notional basis by the learned Claims Tribunal and reckoned the income of the deceased as Rs.3,000/- per month i.e. Rs.36,000/- per annum.

9. The legal position now stands settled by virtue of the law declared by the Apex Court in ***Sarla Verma v. Delhi Transportation Corporation*, *(2009) 6 SCC 121*.** It stands affirmed by the Constitution Bench of the Apex Court in ***National Insurance Company Limited v. Pranay Sethi and others, AIR 2017 SC 5157***. Even though, it has been observed by the Claims Tribunal that the deceased was 30 years of age, there is no conclusive proof with regard to the age. Based on the available materials, the Court reckon the same as 30 years as contended by the claimants. In the instant case, the learned Claims Tribunal has rightly reckoned the income of deceased as Rs.3,000/- per month, i.e. Rs.36,000/- per annum. Going by the rulings rendered by the Apex Court as cited above, in the case of persons of less than 40 years of age without fixed income, 40% of the income has to be added for fixing the future prospects, which comes to Rs.50,400/- per annum. As the deceased was bachelor, a deduction towards personal and living expenses would be 50% (rightly deducted by the learned Claims Tribunal), as such, after deducting 1/2 towards personal and living expenses, annual income of deceased comes to Rs.25,200/-. After applying the multiplier of 17, the loss of income of deceased comes to Rs.4,28,400/-.

10. The scope of 'consortium' has been subsequently explained by the Apex Court in ***Magma General Insurance Company Limited v. Nanu Ram Alias Chuhru Ram & Others, (2018) 18 SCC 130***. It can be of three types; **Parental consortium** (payable to children because of the death of parents); **Spousal consortium** (payable to the surviving spouse because of the death of the partner) and **Filial consortium** (payable to the parents because of the death of children). This being the position, the claimants are entitled to get a sum of Rs.80,000/- towards loss of consortium as the mother has already died during the pendency of the appeal. Further, a sum of Rs.15,000/- is payable towards funeral expenses in view of the law declared in ***Pranay Sethi*** (supra). As per the decision rendered in ***Pranay Sethi*** (supra), the appellants/claimants are also entitled to get a sum of Rs.15,000/- towards loss of estate. Further, 10% enhancement in every three years is also required to be given in respect of loss of estate, funeral expenses and loss of consortium as per the law laid down by the Hon'ble Supreme Court in the matter of ***United India Insurance Company Limited v. Satinder Kaur @ Satwinder Kaur and Others reported in AIR 2020 SC 3076.***

11. On the basis of above recalculation, the claimants are entitled for compensation in the following manner:-

Sl. No.	**Head**	**Calculation**	**Awarded amount**
1.	Income of deceased @ Rs.3,000/- per	Rs.36,000/- per annum	

	month		
2.	40% of (1) above to be added as future prospects	36,000 + 14,400 = Rs.50,400/-	
3.	1/2 of (2) deducted as personal expenses of the deceased	50,400 / 2 = Rs.25,200/-	
4.	Compensation after multiplier of 17 applied	25,200 x 17	Rs.4,28,400/-
5.	Towards loss of estate	15,000 + 3,000 with increase of 10% in every three years	Rs.18,000/-
6.	Towards loss of consortium to all the two claimants @ Rs. 40,000/-	40,000 + 8,000 = 48,000/- with increase of 10% in every three years	Rs.96,000/-
7.	Funeral Expenses	15,000 + 3,000 with increase of 10% in every three years	Rs.18,000/-
8.	Medical Expenses (as awarded by learned Claims Tribunal)		Rs.1,357/-
		Total Compensation Awarded	**Rs.5,61,757/-**

12. In the said circumstance, the total compensation comes to **Rs.5,61,757/-**. After deducting Rs.3,42,357/- as awarded by the Claims Tribunal, the enhancement would be **Rs.2,19,400/-**.

13. As such, the claimants shall be entitled to Rs.2,19,400/- in addition to what is already awarded by the Claims Tribunal. The enhanced amount will carry interest @ 9% per annum from the date of enhancement of the award till its realization. The other conditions imposed by the learned Claims Tribunal shall remain intact.

14. Since, it is an admitted fact that on the date of accident, offending vehicle was duly insured with the Insurance Company, hence, the Insurance Company is directed to pay the enhanced amount of compensation to the claimants as modified by this Court within a period of 60 days from the date of production of certified copy of this judgment.

15. Accordingly, the appeal filed by the claimants is **allowed in part**.

16. Since none has appeared on behalf of the claimants, it is directed that the enhancement of compensation be intimated to the claimants at their given address through the concerned District Legal Services Authority, Korba, Chhattisgarh ('DLSA'). The Registry is directed to forward a copy of this judgment to the claimants as well as to the concerned DLSA, Korba, Chhattisgarh with a further direction to ensure that the claimants may receive the enhanced compensation upon filing suitable proof before the concerned learned Claims Tribunal.

Sd/-

(Amitendra Kishore Prasad)
Judge

Yogesh