



2025:CGHC:38783

NAFR**HIGH COURT OF CHHATTISGARH AT BILASPUR****MAC No. 276 of 2020**

1 - Smt. Seema Acharya W/o Late Ashish Kumar Acharya Aged About 46 Years
Caste Brahman, R/o Motilal Nehru Ward, Nayapara, Jagdalpur, District - Bastar
Chhattisgarh, District : Bastar(Jagdalpur), Chhattisgarh

2 - Ku. Manisha Acharya D/o Late Ashish Kumar Acharya Aged About 23 Years
Caste Brahman, R/o Motilal Nehru Ward, Nayapara, Jagdalpur, District - Bastar
Chhattisgarh, District : Bastar(Jagdalpur), Chhattisgarh

3 - Rahul Acharya S/o Late Ashish Kumar Acharya Aged About 15 Years
(Minor), caste Brahman, Through Natural Guardian Mother Smt. Seema Acharya,
Wife Of Late Ashish Kumar Acharya, R/o Motilal Nehru Ward, Nayapara, Jagdalpur,
District - Bastar Chhattisgarh, District : Bastar(Jagdalpur), Chhattisgarh

... Appellants**Versus**

1 - Vijay Kumar Netam S/o Late Laxman Negam Aged About 42 Years Caste Gond,
R/o Village Kangoli, Police Station - Parpa, District - Bastar Chhattisgarh, (Driver Of
Hundai Car No. Cg-17, C-9100), District : Bastar(Jagdalpur), Chhattisgarh

2 - Abhay Acharya S/o Late B.N. Acharya, R/o Purana Post Office Road Nayapara,
Jagdalpur, Police Station Jagdalpur, District Bastar Chhattisgarh (Owner Of Hundai
Car No. Cg-17, C-9100), District : Bastar(Jagdalpur), Chhattisgarh

3 - Branch Manager Future General India Insurance Company Limited, Branch
Office, Shop No.3, Second Floor, Maruti Business Park, Near Dhuppad Petrol
Pump, Raipur, District Raipur Chhattisgarh (Insurer Of Hundai Car No. Cg-17, C-
9100), District : Raipur, Chhattisgarh

4 - Mohd. Sagir Rizwi S/o Jamaluddin Aged About 35 Years Caste Musalman, R/o
Ramsagarpara, Post Office Ward, Dhamtari, Police Station City Kotwali, Dhamtari,

District Dhamtari Chhattisgarh, (Driver Of Maruti Swift Desire Car No. Cg-04, Hc-8045), District : Dhamtari, Chhattisgarh

5 - Praveer Kumar Gupta S/o Late Bhola Prasad Gupta R/o House No. 15, Tower Phase-4, Heerapur, Raipur, District Raipur Chhattisgarh, (Owner Of Maruti Swift Desire Car No. Cg-04, Hc-8045), District : Raipur, Chhattisgarh

6 - Branch Manager The Orientel Insurance Company Limited, Branch Office, Jagdalpur, District Bastar Chhattisgarh, (Insurer Of Maruti Swift Desire Car No. Cg-04, Hc-8045), District : Bastar(Jagdalpur), Chhattisgarh

... Respondent(s)

For Appellants : Mr. Praveen Dhurandhar, Advocate

For Respondent No. 7 : Mr. Sourabh Sharma, Advocate

S.B.: Hon'ble Shri Parth Prateem Sahu, Judge

Order On Board

05/08/2025

1. This appeal is filed by the appellants seeking enhancement of the amount of compensation awarded by the learned Claims Tribunal in its award dated 12.12.2019 passed by the Third Additional Motor Accident Claims Tribunal, Bastar, Place – Jagdalpur, District – Bastar (C.G.) in Claim Case No. 119/2017.
2. Facts relevant for disposal of this appeal are that on 28.06.2014, the deceased named Ashish Kumar Acharya was traveling on Hyundai Car bearing registration no. CG 17 C 9100 and returning from Raipur to Jagdalpur. On the way, at about 06:15 P.M., when he reached near Village Bhurvend on National Highway 130, Non-Applicant No. 1 while driving his vehicle i.e. Maruit Swift Desire, rashly and negligently dashed the car bearing no. CG 04 HC 8045. In the accident, Ashish Kumar Acharya suffered grievous injuries over his person. He was taken to hospital for treatment, however, during course of treatment, he

succumbed to his injuries on 18.11.2014. The claimants who are widow and children of the deceased filed application under Section 166 of the Motor Vehicles Act, 1988 seeking compensation to the tune of Rs. 1,10,50,000/- with interest.

3. The pleadings made in the claim application was denied by the Non-Applicant No. 3 & 6 who are the insurers of the Hyundai Car and Desire Car pleading therein that both the vehicles were being driven by its driver without there being any valid and effective driving license as such, the vehicles were being driven in breach of conditions of insurance policy and therefore, the insurance companies are not liable to pay any amount of compensation. The Non-Applicant No. 3/Insurance Company also pleaded that it was insurer of the Hyundai Car in which the deceased was occupant/traveling and therefore, the deceased was not a third party so far as it relates to the Hyundai Car and therefore, the claim application filed against the Non-Applicant No. 3 is not maintainable.
4. The Non-Applicant No. 5 did not submitted reply to the claim application. Non-Applicant No. 4, Driver of the Maruti Desire Car submitted reply denying the pleadings made therein and it was further pleaded that as on the date of accident, Maruti Desire Car was insured with Non-Applicant No. 6. Liability to pay the compensation if any, would be upon the Non-Applicant No. 6. Claims Tribunal upon appreciation of the pleadings and evidences brought on record by the respective parties allowed the claim application in part and awarded Rs. 39,44,636/- towards medical expenses, conveyance expenses, bills of the hotel during the treatment and further, awarded

compensation of Rs. 48,87,553/0 against the death of the deceased and thereby, awarded total compensation of Rs. 89,02,189/-.

5. In the appeal, claimants have sought enhancement of the amount of compensation on the ground that the learned Claims Tribunal erred in assessing age of the deceased as 53 years whereas, his age on the date of accident was 48 years as mentioned in the MLC Report (Ex. P/10). Tribunal assessed income of the deceased as Rs. 50,190/- instead of Rs. 60,000/- and application of multiplier of 11 is erroneous. It is also pleaded that the learned Claims Tribunal erred in adding 15% towards the loss of future prospects instead of 30% and Claimants No. 2 & 3 have not been awarded compensation of loss of parental consortium. It is also submitted that the claimants were not awarded any compensation towards the mental agony suffered by them when deceased was under 40 days in the hospital as inpatient and wrongly deducted Rs. 22,728/- from the yearly income of Rs. 6,02,280/- and have prayed for enhancement of the amount of compensation suitably.
6. Learned counsel for the Respondents No. 3 & 6 would support the award passed by the learned Claims Tribunal. They submit that the learned Claims Tribunal after considering the documentary evidence brought on record by the claimants as also, oral evidence of the Appellant/Claimant No. 1 which is with regard to the date of birth i.e. 27.08.1961 and the age is mentioned in the discharge summary of Medanta Hospital, Indus Hospital and Balaji Hospital wherein, the age of the deceased is 53 years have assessed the age of the deceased as 53 years and applied the multiplier, accordingly, added future prospect to the assessed income, which is on appreciation of the evidence available on record.

7. It is next contended that the income of the deceased is also correctly assessed after considering the salary slip of the deceased who was a government servant.
8. I have heard learned counsel for the parties and perused the record of the claim case.
9. During course of arguments, learned counsel for appellants could not be able to point out as to which document available on record was not considered for awarding the expenses towards medical expenses, transportation, etc. So far as the ground raised by the counsel for the appellant of assessing the age of the deceased as 53 years to be erroneous, the claimants have placed on record, copy of the discharge summary of Medanta Global Health Private Ltd. (Ex. A/32) in which, name of patient is mentioned as Mr. Ashish Acharya, date of admission is shown as 02.07.2014 and the date of discharge is mentioned as 09.08.2014. Age of the patient is mentioned as 53 years. In discharge summary of Indus Hospital (A/147), name of patient is mentioned as Mr. Ashish Acharya, age is mentioned as 53 years, the discharge summary also confirms that the date of admission is 29.10.2014 and discharge date is 31.10.2014. In the discharge summary of Balaji Hospital (Ex. A/38), it shows that he was admitted from 10.08.2014 to 28.08.2014. In the CT Scan report of Bombay Hospital Institute of Medical Science dated 10.11.2014 (Ex. A/271), the age of the patient i.e. Mr. Ashish Acharya is mentioned as 53 years. The Claimant No. 1 during recording her evidence have specifically stated the date of birth of the deceased husband as 27.06.1961. In the aforementioned facts of the case and the evidence available on record in particular, the date of birth specifically mentioned by the Claimant No. 1 (AW-1) i.e. wife of

the deceased as also, the age as mentioned in the discharge summaries of 03 hospitals as 53 years, in the opinion of this Court, the learned Claims Tribunal has not committed any error in assessing the age of the deceased as 53 years and therefore, the submission of the counsel for the appellant that the age of the deceased on the date of accident was 48 years is not sustainable and accordingly, it is **repelled**.

10. So far as the second ground raised by the learned counsel for the appellant that the income of the deceased is erroneously assessed as Rs. 50,190/- instead of Rs. 60,000/- is concerned, the deceased was an employee of the State Government and working as Lab Technician. To prove income of the deceased, claimants have examined Dr. S.S. Tekam as AW – 4. In his evidence-in-chief, he fairly stated that gross salary of the deceased was Rs. 50,190/- and after deduction, net salary for the month of October, 2014 was Rs. 36,040/-. This witness is examined on behalf of the claimants, proved the salary-slip filed as Ex. A/297-298. There is no evidence available on record to appreciate the submission of the counsel for the appellant that the income of the deceased was Rs. 60,000/- per month. In view of the above, I am of the considered view that the learned Claims Tribunal justified in assessing the income of the deceased as Rs. 50,190/- in view of the oral and documentary evidence brought on record by the claimants. For the foregoing discussion, the submission of counsel for the appellant that the income of the deceased was Rs. 60,000/- is not sustainable and accordingly, it is **repelled**.

11. The submission of counsel for the appellant that the learned Claims Tribunal erred in not awarding the compensation towards the loss of consortium to the Claimants No. 2 & 3/children of the deceased is

concerned, law in this regard is well settled by the Hon'ble Supreme Court in the case of ***Magma General Insurance Co. Ltd. vs. Nanu Ram @ Chuharu Ram***, reported in ***(2018) 8 SCC*** wherein, it is held that the claimants who are children of the deceased would also be entitled for compensation under the head of loss of parental consortium of Rs. 40,000/- each and therefore, it is ordered that the Claimants No. 2 & 3 will also be entitled for compensation under the head of loss of parental consortium of Rs. 40,000/- each. It is ordered accordingly.

12. Perusal of the impugned award would show that the deceased met with an accident on 28.06.2014 and died on 18.11.2014. He was continuously under treatment for about 05 months. He suffered with C6-7 Fracture with cord injury with traumatic quadriplegia, left hemopneumothorax with multiple fracture left ribs – left ICD in situ, Right effusion (+) with Right Ribs Fracture, Right Forearm bones Fracture; from the nature of injury which the deceased suffered in the motor accident would show that he was not in a position to move himself and he was attended from the date of accident till his death by one attendant. He took treatment from the hospitals at Gurgaon, Haryana, Bombay and at Raipur, the deceased was posted as Lab Technician and was posted at Jagdalpur and therefore, I find it appropriate to award the compensation under the head of attendant for a period of 06 months and for which, the compensation towards the attendant is to be assessed based on the national income of an Unskilled Labourer. On the date of accident, the wages of the Unskilled Laborer was Rs. 5,517/- per month and therefore, the claimants will be further entitled for Rs. 33,102/- (5517 X 6) towards the attendant

and Rs. 25,000/- towards the suffering of the wife who might have been with the patient since the date of accident till his death.

13. For the foregoing discussion, the learned Claims Tribunal has correctly added 15% towards the loss of future prospect, applied deduction of 1/3rd and multiplier of 11 which is to the tune of the decision of the Hon'ble Supreme Court in the case of **Pranay Sethi (Supra)** and **Sarla Verma vs. Delhi Transport Corporation**, reported in **(2009) 6 SCC 121**. Further, the claimants will also be entitled for Rs. 39,44,636/- towards the medical and conveyance expenses as awarded by the learned Claims Tribunal.
14. For the foregoing reason, this Court proposes to recalculate the amount of compensation payable to the appellants:-

S. No.	Heads		Compensation
1.	Loss of Income/Dependency (as awarded by the Claims Tribunal)	:	Rs. 48,87,553/-
2.	Funeral Expenses (maintained)	:	(+) Rs. 15,000/-
3.	Loss of Estate (maintained)	:	(+) Rs. 15,000/-
4.	Loss of parental consortium to Claimant/Appellants No. 2 & 3 Rs. 40,000/- each (40,000 X 2)	:	(+) Rs. 80,000/-
5.	Loss of spousal consortium to the Claimant/Appellant No. 1	:	(+) Rs. 40,000/-
6.	Medical Expenses (maintained)	:	(+) Rs. 39,44,636/-
7.	Attendant (5517 X 6)	:	(+) Rs. 33,102/-
8.	Suffering of Wife	:	(+) Rs. 25,000/-
	Total Compensation		Rs. 90,40,291/-

15. Now, the Appellants/Claimants are awarded total compensation of **90,40,291/-** instead of Rs. 89,02,189/- as awarded by the learned Claims Tribunal. This enhanced amount of compensation shall carry

interest @ 8% from the date of filing of claim application till its realization. Rest of the conditions mentioned in the impugned award shall remain intact.

16. Certified copy as per rules.

Sd/-
(Parth Prateem Sahu)
Judge

Dey