



2026:CGHC:9384

NAFR**HIGH COURT OF CHHATTISGARH AT BILASPUR****MAC No. 241 of 2018**

1 - Cholamandlam Ms General Insurance Company, Through Its Regional Manger, Opposite Life Insurance Corporation Pandri, P. S. Pandri District- Raipur, Chhattisgarh.(Insurer)., District : Raipur, Chhattisgarh.

... Appellant(s)**versus**

1 - Smt. Kaushalya Bai W/o W/o Late Surajlal Yadav Aged About 30 Years R/o Gudripara, P. S. Narayanpur, Tahsil And District Narayanpur, Chhattisgarh.(Claimants)., District : Narayanpur, Chhattisgarh.

2 - Rupesh Yadav, S/o S/o Late Surajlal Yadav Aged About 08 Years Minors Represented Through Guardian Mother Smt. Kaushalya Bai, Appellant No. 1. R/o Gudripara, P. S. Narayanpur, Tahsil And District Narayanpur, Chhattisgarh., District : Narayanpur, Chhattisgarh.

3 - Rupa Yadav, D/o D/o Late Surajlal Yadav Aged About 6 Years Aged About 06 Years Minors Represented Through Guardian Mother Smt. Kaushalya Bai, Appellant No.01. R/o Gudripara, P. S. Narayanpur,

Tahsil And District Narayanpur, Chhattisgarh., District : Narayanpur, Chhattisgarh.

4 - Ku. Roshni Yadav D/o D/o Late Surajlal Yadav Aged About 03 Years, Minors Represented Through Guardian Mother Smt. Kaushalya Bai, Appellant No.1. R/o Gudripara, P. S. Narayanpur, Tahsil And District Narayanpur, Chhattisgarh., District : Narayanpur, Chhattisgarh.

5 - Shri Dharmuram Yadav S/o S/o Balduram Yadav Aged About 60 Years R/o Gudripara, P. S. Narayanpur, Tahsil And District Narayanpur, Chhattisgarh., District : Narayanpur, Chhattisgarh.

6 - Smt. Sukhpati Yadav W/o W/o Shri Dharmulal Yadav Aged About 55 Years R/o Gudripara, P. S. Narayanpur, Tahsil And District Narayanpur, Chhattisgarh., District : Narayanpur, Chhattisgarh.

7 - Suresh Kumar Usendi S/o S/o Santosh Usendi Aged About 33 Years R/o Near High School, Bakhrupara, P. S. And District- Narayanpur, Chhattisgarh.(Driver)., District : Narayanpur, Chhattisgarh.

8 - Dinesh Jain S/o S/o Rajdan Jain R/o Near Bastar Travels, Main Road, P. S. And District- Narayanpur, Chhattisgarh. (Owner)., District : Narayanpur, Chhattisgarh.

... Respondent(s)

For Appellant(s)	:	Mr. Ghanshyam Patel, Advocate.
For Respondent(s)/Claimants	:	Mr. Yogesh Kumar, Advocate on behalf of Mr. Anchal Kumar Matre, Advocate.

Hon'ble Mr. Justice Amitendra Kishore Prasad**Order on Board****23/02/2026**

1. The present is Insurance Company's appeal assailing the award dated 10.11.2017 passed by the learned Motor Accident Claims Tribunal, Kondagaon, District-Kondagaon (C.G.) in Claim Case No. 45/2017, whereby the Claims Tribunal has awarded a compensation of Rs. 19,94,560/- with interest @ 9% per annum in favour of claimants/respondents No. 1 to 6 herein.
2. Brief facts of the case, is that, the claimants, namely the wife, children, and parents of the deceased, filed a claim petition under Section 166 of the Motor Vehicles Act, 1988 seeking compensation on account of the death of Surajlal Yadav. According to the claimants, on 12.12.2016 at about 6:30 p.m., the deceased was returning home on his motorcycle bearing registration No. CG-27-8-2975, and when he reached near Jagdish Temple, Narayanpur, Non-applicant No.1, while driving a Tata 407 bearing registration No. CG-21-H-0136 in a rash and negligent manner, dashed against the motorcycle, resulting in grievous injuries to the deceased, who was subsequently taken to B.R. Ambedkar Hospital and succumbed to his injuries on 15.12.2016 during treatment. It was further pleaded that the deceased, aged about 29 years, was working as a Secret Police in the Police Department and earning Rs.12,300/- per month, and since all the claimants were dependent upon his income, they

claimed compensation of Rs.34,00,000/- under various heads. Non-applicants No.1 and 2 filed a joint written statement denying the allegations and contending that the accident occurred due to a head-on collision between two vehicles, one of which was the motorcycle driven by the deceased himself; thus, the owner and insurer of the motorcycle were necessary parties, and in their absence, the claim petition was liable to be dismissed for non-joinder of necessary parties. The present appellant—Insurance Company also filed a detailed written statement specifically pleading that the driver of the offending vehicle did not possess a valid and effective driving licence at the time of the accident and that the owner, being aware of this fact, willfully entrusted the vehicle to him, thereby committing a breach of the terms and conditions of the insurance policy; it was further contended that the accident was a case of contributory negligence, as it was a head-on collision in the middle of the road and the deceased himself failed to exercise due care and caution while driving. The appellant further submitted that it had applied through its investigator to the R.T.O., Durg for verification of the driving licence, and the report dated 16.10.2017 revealed that Driving Licence No. 5/29614/Durg had not been issued by the Licensing Authority, Jagdalpur, and as per office records, no such licence number was issued in the year 2007, thereby establishing that the licence of Non-applicant No.1 was fake, however, prior to receipt of the verification report, the learned Tribunal had already closed

the opportunity to lead evidence and reserved the matter for orders, as a result of which the appellant could neither place the verification report on record nor adduce evidence to prove breach of policy conditions. Despite these facts, the learned Tribunal, without properly appreciating the evidence on record, held that the appellant failed to prove breach of policy conditions and, after granting future prospects without permissible basis, fastened the liability upon the appellant–Insurance Company, hence the present appeal.

3. Learned counsel for the appellant/insurance company submits that the appellant/insurance company was not afforded a proper and adequate opportunity of hearing before the learned Tribunal, and consequently, the driving licence of the deceased driver, which was subsequently discovered to be fake, could not be produced or brought on record at the relevant time. In view of the said circumstances, the appellant has preferred an application under Order 41 Rule 27 of the Code of Civil Procedure seeking permission to adduce additional evidence and to place the relevant documents on record in the interest of justice. It is further contended that the learned Tribunal has erroneously assessed future prospects at the rate of 35%, which, according to the appellant, is contrary to the law laid down by the Hon'ble Supreme Court in ***National Insurance Co. Ltd. v. Pranay Sethi***, particularly considering that the age of the deceased was 31 years at the time of the accident. Additionally, learned counsel submits

that the parents of the deceased were not financially dependent upon him and, therefore, in light of the principles enunciated in ***Sarla Verma v. Delhi Transport Corporation***, the claimants would not be entitled to compensation as dependents, in such a situation, the appropriate deduction towards personal and living expenses ought to have been 1/3 instead of 1/4, as erroneously applied by the learned Tribunal.

4. Learned counsel for the claimants submits that the claims Tribunal has awarded a sum of Rs. 19,94,560/- which is not in accordance with law and the same is required to be enhanced in accordance with law. He further submits that the compensation awarded under other heads is also on lower side and needs to be enhanced. Hence, this appeal may be allowed by enhancing the compensation amount suitably.
5. None for respondents No. 7 & 8 i.e. driver and owner of the offending vehicle.
6. I have heard learned counsel for the parties and perused the material available on record.
7. Upon consideration of the facts and circumstances of the case, the submissions advanced by learned counsel for the parties, and on perusal of the record, this Court finds no merit in the present appeal. The learned Tribunal has duly appreciated the oral and documentary evidence available on record and has rightly fastened the liability upon the appellant–Insurance Company, as the alleged breach of policy conditions regarding the driving

licence was not proved in accordance with law. The application under Order 41 Rule 27 CPC seeking to adduce additional evidence does not warrant consideration at the appellate stage, particularly when sufficient opportunity had been granted before the Tribunal. The assessment of compensation, including the addition towards future prospects and the deduction towards personal expenses, has been made in consonance with the settled principles laid down by the Hon'ble Supreme Court, and no perversity or illegality is demonstrated so as to warrant interference. The compensation awarded cannot be said to be excessive or arbitrary.

8. Accordingly, the appeal being devoid of substance is hereby **dismissed**, and the award passed by the learned Tribunal is affirmed.

Sd/-
(Amitendra Kishore Prasad)
Judge