



2026:CGHC:10596



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NAFR

## HIGH COURT OF CHHATTISGARH AT BILASPUR

### MAC No. 278 of 2023

**1** - Bhunsaro Bai W/o Late Shukhdev Singh Aged About 36 Years R/o Village - Ghuchapur, Korbi Chowki-Korbi, Thana- Pasan, Tahsil Podi Uproda, District Korba Chhattisgarh. (Claimants)

**2** - Sunita Binghwar D/o Late Shukhdev Singh Aged About 18 Years R/o Village - Ghuchapur, Korbi Chwki-Korbi, Thana Pasan, Tahsil Podi Uproda, District Korba Chhattisgarh. (Driver Of The Offending Vehicle Scooty Honda Activa No. Cg-12/ba/4863)

... **Petitioner(s)**

**versus**

**1** - Avinash Kalkho S/o Dilip Khalkho R/o Panchayat Parla, Korbi Chowki Korbi Thana-Pasan, Tahsil Podi Uproda, District- Korba Chhattisgarh. (Driver Of The Offending Vehicle Scooty Honda Activa No. Cg-12/ba/4863)

**2** - Anamika Kalkho D/o Dilip Khalkho R/o Panchayat Parla, Korbi Chowki-Korbi, Thana - Pasan, Tahsil Podi Uproda, District - Korba Chhattisgarh, (Owner Of The Offending Vehicle Scooty Honda Activa No. Cg-12/ba/4863)

**3** - The United India Insurance Company Limited, Through Micro Office, Shopping Complex Main Road Katghora, In Front Of Punjab National Bank Katghora, District Korba Chhattisgarh. (Insurer Of The Offending Vehicle Scooty Honda Activa No. Cg-12/ba/4863)

... **Respondent(s)**

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For Petitioner(s) : Mr. Vikas Kumar Pandey, Advocate

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For Respondent(s) : Ms. Swati Agrawal, Advocate holding brief of Mr.  
Pankaj Agrawal, Advocate

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**Hon'ble Shri Justice Rakesh Mohan Pandey**  
**Judgment On Board**

**28.02.2026**

1. The claimants have filed this appeal seeking enhancement of compensation, assailing the award dated 09.01.2023 passed by the learned Second Motor Accident Claims Tribunal, District Korba, in Claim Case No. 69/2021, whereby the Tribunal has granted compensation to the tune of Rs. 11,18,000/- with interest @ 6% per annum on account of the death of Sukhdev Singh Binjwar.
2. The facts of the case, in brief, are that on 10.08.2020 at around 07:00 PM the motorcycle of the deceased was hit by rider of offending scooty bearing Registration No. CG12 - BA - 4863. In the said accident, Sukhdev Singh Binjwar sustained injuries and succumbed to death. The claimant, who are widow and daughter of the deceased, filed a claim petition under Section 166 of the Motor Vehicles Act, wherein they pleaded that the deceased was aged about 39 years and was earning Rs.20,000/- per month and claimed compensation to the tune of Rs.36,00,000/-.
3. The insurance company filed reply and denied averments made in the claim petition.
4. The Tribunal framed issues, parties led evidence and thereafter awards were passed.



5. Learned counsel for the applicants/claimants submits that the Tribunal assessed the income of the deceased at Rs.6,000/- per month, which is on the lower side. He contends that, in the absence of cogent evidence, the Tribunal ought to have applied the minimum wage matrix. It is also submitted that the minimum wage admissible to an unskilled labourer in the month of August, 2020 was Rs.8,860/- per month. He further submits that the Tribunal has committed error of law in granting the compensation under the conventional heads. He, therefore, prays for enhancement of the compensation accordingly.
6. Learned counsel for the insurance company opposes the submissions and contends that the Tribunal exonerated the insurance company and fastened the liability upon the driver & owner of the offending vehicle. The learned Tribunal directed the insurance company to satisfy the award at the first instance and thereafter recover the same from the driver & owner of the offending vehicle. She further contends that the claimant could not adduce clinching evidence to establish the income of the deceased; therefore, the Tribunal assessed the income of the deceased at Rs.6,000/- per month. It is submitted that the Tribunal has awarded just and proper compensation and, therefore, the appeal deserves to be dismissed.
7. I have heard learned counsel for the parties and perused the record.



8. Claimant No.1 examined herself as AW-01 and categorically stated that her husband was earning Rs.20,000/- per month by working as a mason, and in her cross-examination she remained firm with regard to the income of the deceased. Pawan Singh (AW-02), who was an eyewitness to the accident, was also examined. This witness likewise remained consistent during his cross-examination. Thus, the finding recorded by the Tribunal that the deceased sustained injuries in the road accident is hereby affirmed.
9. The insurance company took a plea that the rider of the offending vehicle did not possess a valid driving licence. In this regard, the insurance company examined Shankar Page (NAW-03), Administrative Officer of the insurance company, who categorically stated that the driver of the offending vehicle did not have a valid and effective driving licence. The rider of the offending scooty failed to adduce any evidence to establish that he possessed a driving licence on the date of the accident. Therefore, there was sufficient ground before the Tribunal to exonerate the insurance company from liability and to shift the same upon the owner and driver of the offending vehicle. The finding recorded by the Tribunal with regard to the liability of the owner and driver of the offending vehicle appears to be just and proper and is hereby affirmed.
10. With regard to enhancement of compensation, the Tribunal assessed the income of the deceased at Rs.6,000/- per month,



which is certainly on the lower side. In the absence of evidence, the Tribunal ought to have applied the minimum wage matrix. The minimum wage for an unskilled labourer in the month of August 2020 was Rs.8,860/- per month, and this figure ought to have been taken into consideration by the Tribunal while determining the income of the deceased. Further, the Tribunal has committed an error in granting compensation towards loss of consortium to the claimants, contrary to the law laid down by the Hon'ble Supreme Court in the matter of **National Insurance Company Limited v. Pranay Sethi,<sup>1</sup>** and **Magma General Insurance Company Ltd. v. Nanu Ram @ Chuhru Ram & Ors<sup>2</sup>**.

11. Thus, the compensation requires reconsideration and the same is reinstated hereinbelow :-

| Sr. No. | Heads                                                   | Compensation awarded by Tribunal | Compensation awarded by this Court |
|---------|---------------------------------------------------------|----------------------------------|------------------------------------|
| 1.      | Annual Income                                           | Rs.72,000/-<br>(@Rs.6,000 pm)    | Rs. 1,06,320/-<br>(@Rs. 8,860 pm)  |
| 2.      | Future Prospect                                         | Rs. 28,800/-<br>(@40%)           | Rs. 42,528/-<br>(@40%)             |
| 3.      | Annual income after Deduction Towards Personal Expenses | Rs.67,200/-<br>(@1/3)            | Rs. 99,232/-<br>(@1/3)             |
| 4.      | Annual Income after Applying Multiplier                 | Rs. 10,08,000/-<br>(@15)         | Rs. 14,88,480/-<br>(@15)           |
| 5.      | Loss of Consortium                                      | Rs.80,000                        | Rs. 88,000/-                       |

1 (2017) 16 SCC 680

2 Reported in (2018) 18 SCC 130



|              |                  |                       |                       |
|--------------|------------------|-----------------------|-----------------------|
| 6.           | Funeral Expenses | Rs.15,000/-           | Rs.16,500/-           |
| 7.           | Loss of Estate   | Rs.15,000/-           | Rs.16,500/-           |
| <b>Total</b> |                  | <b>Rs.11,18,000/-</b> | <b>Rs.16,09,480/-</b> |

12. Accordingly, the compensation of **Rs.11,18,000/-** awarded by the Claims Tribunal is enhanced to **Rs.16,09,480/-**. Thus, the appellants shall be entitled to an additional compensation of **Rs.4,91,480/-**. The Insurance Company is directed to pay the additional compensation assessed hereinabove within a period of 60 days.
13. The learned Tribunal directed the insurer to first indemnify the compensation amount/enhances amount with liberty to recover the same from the driver/owner of the offending vehicle.
14. The remaining terms and conditions of the award shall remain intact.
15. Accordingly, the appeal is **allowed in part** and the impugned award is modified to the extent as indicated herein-above.

Sd/-  
(Rakesh Mohan Pandey)  
JUDGE