CGHC010051262022 2026:CGHC:31006

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MAC No. 308 of 2022

1 - The Oriental Insurance Company Ltd. Through Branch Manager, Hotel Laxman Avenue, Medical College Road Jagdalpur, Distt. Bastar (C.G.) Represented Through In-Charge T.P. Hub, T.P, Hub Office, Rama Trade Centre, 1st Floor, Opp. Rajeev Plaza Near Old Bus Stand Bilaspur (C.G.) Pin – 495001.

... Appellant

versus

1 - Smt. Neetu Devangan Wd/o - Late Krishnakumar Devangan, Aged About 49 Years, R/o Dhaniram Gali, Bhagat Singh Ward, Pathraguda, Jagdalpur, District Bastar (C.G.).

2 - Harshit Devangan S/o Late Krishna Kumar Devangan, Aged About 23 Years, R/o Dhaniram Gali, Bhagat Singh Ward, Pathraguda, Jagdalpur, District Bastar (C.G.).

3 - Ku. Aditi Devangan D/o - Late Krishna Kumar Devangan, Aged About 19 Years, R/o Dhaniram Gali, Bhagat Singh Ward, Pathraguda, Jagdalpur, District Bastar (C.G.).

4 - Smt. Yashoda Devangan W/o - Shri Parsuram Devangan, Aged About 71 Years, R/o Dhaniram Gali, Bhagat Singh Ward, Pathraguda, Jagdalpur, District Bastar (C.G.).

5 - Devesh Kumar Dhruv S/o Shri Devlad Ram Dhruv, Aged About 27 Years, R/o Kavaras Village Chhindawara, Police Station- Darbha, Police Station Lohandiguda, District- Bastar (C.G.).

6 - Shri Devlad Ram Dhruv S/o Chaitram Dhruv, Aged About 51 Years, R/o Kavaras Village Chhindawara, P.S. - Darbha, District Bastar (C.G.).

... Respondents

For Appellant	:	Mr. R.N. Pusty, Advocate with Mr. Akash Shrivastava, Advocate.
For Respondents No.1 to 4	:	Mr. Praveen Dhurandhar, Advocate
For Respondents No. 5 & 6	:	None.

(Hon'ble Shri Justice Sanjay Kumar Jaiswal, J.)

Order On Board

21/07/2026

1. As per the mediation report dated 10.04.2026, the matter remained as non-starter.

2. With the consent of the learned counsel for the parties, the appeal is heard finally.

3. The present appeal has been preferred by the appellant/Insurance Company being aggrieved by the award dated 16.09.2021 passed by the Learned Third Additional Motor Accident Claims Tribunal, Bastar at Jagdalpur (C.G.), in Claim Case No. 99/2019, whereby compensation of Rs. 88,68,215/-, along with interest @ 9% per annum from the date of filing of the claim petition till its realization, has been awarded in favour of the claimants, and the liability of payment of compensation has been fastened upon the appellant–Insurance Company.

4. The facts, in brief, necessary for the disposal of the present appeal are that, on 14.02.2019, the deceased, Krishna Kumar Devangan, was riding his motorcycle bearing Registration No. CG-17-KM-9260 from Village Bastar towards Jagdalpur. When he reached NH-30, between Village Ghatlohanga and Village Borpadar, near Bastar Haat, the driver (respondent No. 5 herein) of the Bolero vehicle bearing Registration No. CG-17-KH-1214, while driving the said vehicle in a rash and negligent manner, dashed into the motorcycle of the deceased from behind. As a result of the impact, the deceased sustained grievous injuries and succumbed to the same at the spot, resulting in his instantaneous death. On the basis of the report lodged in respect of the said accident, an offence was registered against the driver at the concerned Police Station and a charge-sheet was subsequently filed before the competent Court.

5. The claimants, who are the wife, children and mother of the deceased, preferred a claim application before the Tribunal claiming compensation of Rs.86,50,000/-. Learned Claims Tribunal, on a close scrutiny of the evidence available on record, award total compensation of Rs.88,68,215/- in favour of the claimants, from the date of application till its realization. While passing the impugned award, the Tribunal has fastened the liability of payment of compensation upon the appellant Insurance Company against which the present appeal has been filed.

6. Learned counsel for the appellant/Insurance Company contends that the impugned award passed by the learned Tribunal is contrary to law and the evidence available on record. He further submits that in the Merg Intimation Ex.-A/1, the registration number of the offending vehicle was subsequently added by way of overwriting, and on that basis the seizure of the said vehicle was effected with considerable delay on 12.04.2019. He further submits that the offending vehicle was not involved in the said accident and has been falsely implicated. In support thereof, the Administrative Officer, namely Kumar Gaurav (AW-3), has been examined and his Investigation Report Ex. NA/2, affidavit of the driver of the offending vehicle Devesh Kumar Dhruv Ex. NA/3, affidavit of the owner of the offending vehicle Devlal Ram Dhruv Ex. NA/4, complaints lodged by them before the Police Ex. NA/7 & Ex. NA/8, and complaint lodged by the Insurance Company before the Police

Ex. NA/5 to contend that since the offending vehicle was not involved in the accident, the Insurance Company is not liable to pay compensation to the claimants, and as such, the impugned award is liable to be set aside.

7. Per contra, learned counsel appearing for respondent Nos. 1 to 4 opposes the submissions advanced on behalf of the appellant/Insurance Company and supports the impugned award passed by the learned Claims Tribunal. He further submits that, on the basis of the oral and documentary evidence available on record, the learned Tribunal has rightly recorded a finding that the offending vehicle was involved in the said accident and has, therefore, correctly fastened the liability upon the appellant/Insurance Company, which does not call for any interference by this Court, therefore, the appeal filed by the appellant/insurance company deserves to be dismissed.

8. None appeared on behalf of respondent Nos. 5 and 6.

9. I have heard learned counsel for the parties, considered their rival submissions made herein-above and went through the records with utmost circumspection.

10. In the present case, AW-2 Anil Devangan has been examined as an eye-witness who, in his statement, has stated that the accident was caused by the offending vehicle. Further, as per the Police charge-sheet Ex. A/8, he is a listed witness. Hence, there is no reason to doubt the credibility of his evidence. The claimants have also produced certified copies of the police charge-sheet, marked as Ex. A/1 to A/8. A perusal of the Merg Intimation Ex. A/1 reveals that while the word "Bolero" has been written in the same line, the registration number "CG17KH" appears to have been written slightly above the line and the digits "1214" slightly below the line, giving an impression that the registration number was inserted subsequently. The accident occurred on 14.02.2019, and the Merg Intimation Ex. A/1 was also recorded on the very same date. Further, the FIR Ex. A/2, registered at Police Station Kotwali, is also of the same date i.e., 14.02.2019, and pertains to the same occurrence. It specifically mentions the complete particulars of the offending vehicle, namely, a white Bolero bearing registration No. CG17KH1214. Significantly, the FIR contains the complete registration number of the offending vehicle without any overwriting, interpolation, or alteration, therefore, the contention advanced on behalf of the appellant that the offending vehicle has been falsely implicated by subsequently inserting its registration number in the Merg Intimation through overwriting cannot be accepted.

11. On the evidentiary value of the charge sheet submitted by the police upon completion of the investigation, the Hon'ble Supreme Court, in **ICICI Lombard General Insurance Company Limited v. Rajani Sahu and Others**, has laid down the following proposition of law in paragraphs 8 to 10:

> **"8** As regards the reliability of charge-sheet and other documents collected by the police during the investigation in motor accident cases, this Court in Mangla Ram v. Oriental Insurance Co. Ltd. [Mangla Ram v. Oriental Insurance Co. Ltd., (2018) 5 SCC 656 : (2018) 3 SCC (Civ) 335 : (2018) 2 SCC (Cri) 819 : 2018 INSC 311] , held in para 27, thus : (SCC p. 672)
>
> > "*27.* Another reason which weighed with the High Court to interfere in the first

> appeal filed by Respondents 2 and 3, was absence of finding by the Tribunal about the factum of negligence of the driver of the subject jeep. Factually, this view is untenable. Our understanding of the analysis done by the Tribunal is to hold that Jeep No. RST 4701 was driven rashly and negligently by Respondent 2 when it collided with the motorcycle of the appellant leading to the accident. This can be discerned from the evidence of witnesses and the contents of the charge-sheet filed by the police, naming Respondent 2. This Court in a recent decision in *Dulcina Fernandes* [*Dulcina Fernandes* v. *Joaquim Xavier Cruz*, (2013) 10 SCC 646 : (2014) 1 SCC (Civ) 73 : (2014) 1 SCC (Cri) 13] , noted that the key of negligence on the part of the driver of the offending vehicle as set up by the claimants was required to be decided by the Tribunal on the touchstone of preponderance of probability and certainly not by standard of proof beyond reasonable doubt. *Suffice it to observe that the exposition in the judgments already adverted to by us, filing of charge-sheet against Respondent 2 prima facie points towards his complicity in driving the vehicle negligently and rashly*. Further, even when the accused were to be acquitted in the criminal case, this Court opined that the same may be of no effect on the assessment of the liability required in respect of motor accident cases by the tribunal."

9. It is true that the Tribunal had looked into the oral and documentary evidence including the FIR, final report and such other documents prepared by the police in connection with the accident in question. The Tribunal had also taken note of the fact that based on the final report, the driver of the offending truck was tried and found guilty for rash and negligent driving. The High Court took note of such aspects and found no illegality in the procedure adopted by the Tribunal and consequently dismissed the appeal.

10. In the contextual situation it is relevant to refer to a decision of this Court in *Mathew Alexander* v. *Mohd. Shafi* [*Mathew Alexander* v. *Mohd. Shafi*, (2023) 13 SCC 510 : 2023 INSC 621] , this Court held thus : (SCC p. 514, para 12)

> "12. …A holistic view of the evidence has to be taken into consideration by the Tribunal and strict proof of an accident caused by a particular vehicle in a particular manner need not be established by the claimants. The claimants have to establish their case on the touchstone of preponderance of probabilities. The standard of proof beyond reasonable doubt cannot be applied while considering the petition seeking compensation on account of death or injury in a road traffic accident. To the same effect is the observation made by this Court in Dulcina Fernandes v. Joaquim Xavier Cruz [Dulcina Fernandes v. Joaquim Xavier Cruz, (2013) 10 SCC 646 : (2014) 1 SCC (Civ) 73 : (2014) 1 SCC (Cri) 13] which has referred to the aforesaid judgment in Bimla Devi [Bimla Devi v. Himachal RTC, (2009) 13 SCC 530 : (2009) 5 SCC (Civ) 189 : (2010) 1 SCC (Cri) 1101] ."

12. In view of the aforesaid statement of the eyewitness, which is duly supported by the documentary evidence, and in light of the law laid down by the Hon'ble Supreme Court in **ICICI Lombard General Insurance Company Limited v. Rajani Sahu and Others** (supra), the contention advanced on behalf of the appellant/Insurance Company that the registration number of the offending vehicle was subsequently inserted in the Merg Intimation by way of overwriting, and that the vehicle was thereafter falsely implicated, cannot be accepted. Accordingly, the appeal of the appellant/Insurance Company is liable to be dismissed.

<u>Cross-Objection/Appeal</u>

13. Learned counsel for respondent Nos. 1 to 4/claimants further submits that in the facts and circumstances of the case, the Tribunal has awarded lesser compensation which deserves to be enhanced suitably.

14. Upon due consideration of the oral and documentary evidence available on record, this Court finds that the learned Claims Tribunal has correctly assessed the monthly income of the deceased at Rs. 57,056/- on the basis of the salary slip and considering that the deceased was aged about 49 years, added 30% towards future prospects, deducted 1/4 of the income towards personal and living expenses, having regard to the number of claimants, and applied the multiplier of 13 considering the age of the deceased as 49 years. The Tribunal has also awarded a sum of Rs. 1,90,000/- under the conventional heads, resulting in a total compensation of Rs. 88,68,215/- along with interest at the rate of 9% per annum from the date of filing of the claim petition till realization. The compensation so awarded is found to be just, fair and reasonable and does not warrant any enhancement. Consequently, the cross-appeal preferred by respondent Nos. 1 to 4/claimants, seeking enhancement of compensation, being devoid of merit, is also liable to be dismissed.

15. Accordingly, the appeal preferred by the appellant/Insurance Company, as well as the cross-appeal preferred by respondent Nos. 1 to 4/claimants, being devoid of merit, are hereby **dismissed**.

16. Record of the Tribunal be sent back along with a copy of this judgment forthwith for information and necessary action, if any.

Sd/

(**Sanjay Kumar Jaiswal**)

JUDGE

$ourabh