



2026:CGHC:553

NAFR**HIGH COURT OF CHHATTISGARH AT BILASPUR****MAC No. 425 of 2020**

Branch Manager The National Insurance Company Limited , Branch Office,
Above Karnataka Bank Limited , Station Road , Durg Chhattisgarh. (Insurer Of
Offending Vehicle Truck Bearing Registration No. C.G. - 19- Bg - 8866),
District : Durg, Chhattisgarh

--- Appellant**versus**

1 - Smt. Seema Mandavi Wd/o Late Sonhanram Mandavi Aged About 26
Years R/o Village Tarasgaon, Police Station And Tahsil Charama , District
North Bastar Kanker Chhattisgarh., District : Kanker, Chhattisgarh

2 - Tameshwar Mandavi S/o Late Sohanram Mandavi Aged About 6 Years
Minor Through Natural Guardian Mother Smt. Seema Mandavi, R/o Village
Tarasgaon, Police Station And Tahsil Charama , District North Bastar Kanker
Chhattisgarh., District : Kanker, Chhattisgarh

3 - Ku. Ganjan Mandavi D/o Late Sonhanram Mandavi Aged About 4 Years
Minor Through Natural Guardian Mother Smt. Seema Mandavi, R/o Village
Tarasgaon, Police Station And Tahsil Charama , District North Bastar Kanker
Chhattisgarh., District : Kanker, Chhattisgarh

4 - Chandrabhushan Barle S/o Praduman Barle Aged About 29 Years R/o
Village Sikosa, Dipopara, Police Station Gunderdehi, District Balod
Chhattisgarh. (Driver Of Offending Vehicle Truck Bearing Registration No.
C.G.- 19- Bg- 8866) (Non Applicant No. 01), District : Balod, Chhattisgarh

5 - Anup Singh Rathore S/o Mahaveer Singh R/o Korar , Ward No. 05, Police
Station Korar, Tahsil Bhanupratappur, District North Bastar Kanker
Chhattisgarh. (Owner Of Offending Vehicle Truck Bearing Registration No.

C.G. - 19- Bg- 8866) (Non Applicant No. 02), District : Kanker, Chhattisgarh

6 - Smt . Manki Mandavi Wd/o Late Ishwar Mandavi Aged About 55 Years R/o Village Tarasgaon, Police Station And Tahsil Charama, District North Bastar Kanker Chhattisgarh., District : Kanker, Chhattisgarh

7 - Ku. Kavita Mandavi D/o Late Ishwar Mandavi Aged About 22 Years R/o Village Tarasgaon, Police Station And Tahsil Charama, District North Bastar Kanker Chhattisgarh., District : Kanker, Chhattisgarh

8 - Yogeshwar Mandavi S/o Late Ishwar Mandavi Aged About 19 Years R/o Village Tarasgaon, Police Station And Tahsil Charama, District North Bastar Kanker Chhattisgarh., District : Kanker, Chhattisgarh

--- **Respondent(s)**

with

MAC No. 799 of 2020

Branch Manager The National Insurance Company Limited, Branch Office, Shanti Chabi Tower First Floor, Power House Road, Sirhasar Chowk Jagdalpur, Distt.- Bastar, Chhattisgarh, (Insurer Of Offending Vehicle Truck Bearing Registration No. C.G.-19-Bg-8866), District : Bastar(Jagdalpur), Chhattisgarh

---**Appellant**

Versus

1 - Smt. Manki Mandavi Wd/o Late Ishwar Mandavi Aged About 55 Years R/o Village Tarasgaon, Police Station And Tahsil Charama, District North Bastar Kanker, Chhattisgarh, District : Kanker, Chhattisgarh

2 - Ku. Kavita Mandavi D/o Late Ishwar Mandavi Aged About 22 Years R/o Village Tarasgaon, Police Station And Tahsil Charama, District North Bastar Kanker, Chhattisgarh, District : Kanker, Chhattisgarh

3 - Yogeshwar Mandavi S/o Late Ishwar Mandavi Aged About 19 Years R/o Village Tarasgaon, Police Station And Tahsil Charama, District North Bastar Kanker, Chhattisgarh, District : Kanker, Chhattisgarh

4 - Chandrabhushan Barle S/o Praduman Barle Aged About 29 Years R/o Village Sikosa, Dipopara, Police Station Gunderdehi, District Balod,

Chhattisgarh, (Driver Of Offending Vehicle Truck Bearing Registration No. C.G. -19-Bg-8866) (Non-Applicant No.1)

5 - Anup Singh Rathore S/o Mahaveer Singh R/o Korar, Ward No. 5, Police Station Korar, Tahsil Bhanupratappur, District North Bastar Kanker, Chhattisgarh, (Owner Of Offending Vehicle Truck Bearing Registration No. C.G. -19-Bg-8866) (Non-Applicant No. 2)

6 - Smt. Seema Mandavi Wd/o Late Sonhanram Mandavi Aged About 26 Years R/o Village Tarasgaon, Police Station And Tahsil Charama, District North Bastar Kanker, Chhattisgarh,, District : Kanker, Chhattisgarh

7 - Nageshwar Mandavi S/o Late Sohanram Mandavi Aged About 6 Years Minor Through Natural Guardian Mother Smt. Seema Mandavi, R/o Village Tarasgaon, Police Station And Tahsil Charama, District North Bastar Kanker, Chhattisgarh,, District : Kanker, Chhattisgarh

8 - Ku. Ganjan Mandavi D/o Late Sonhanram Mandavi Aged About 3 Years Minor Through Natural Guardian Mother Smt. Seema Mandavi, R/o Village Tarasgaon, Police Station And Tahsil Charama, District North Bastar Kanker, Chhattisgarh,, District : Kanker, Chhattisgarh

--- **Respondent(s)**

For Appellant : Mr. Anil Kumar Gulati, Advocate

For Respondent(s) : None though served.

Hon'ble Shri Justice Rakesh Mohan Pandey

Judgment on Board

06/01/2026

1. In MAC No. 425 of 2020, the appellant/insurance company has assailed the award dated 18.10.2019 passed in Claim Case No. 66 of 2019, which was preferred by the wife and two minor children of the deceased, whereas, in MAC No. 799 of 2020, the appellant has assailed the award dated 18.10.2019 passed in Claim Case No. 72 of 2019, which was preferred by the mother, sister, and brother of the deceased on account of death of Sohan Manndavi, whereby the learned Tribunal

passed common award and granted a sum of Rs.14,85,232/- with interest @ 7 % per annum to the claimants.

2. Brief facts of the present case are that on 12.01.2019, the deceased Sohan Mandavi, while returning home, met with an accident near Makdi Dhaba. The accident occurred due to the rash and negligent driving of the driver of the offending vehicle, a truck bearing registration No. CG-19-BG-8866, who dashed against him. As a result of the said accident, Sohan Mandavi sustained grievous injuries and died on the spot. Claim Case No. 66/2019 was filed by the widow and two minor children of the deceased, whereas Claim Case No. 72/2019 was filed by mother, sister and brother of the deceased for grant of compensation. Learned Tribunal decided both the cases by common award.
3. Mr. Gulati, learned counsel appearing for the appellant/insurance company would argue that the learned tribunal has considered the age of the deceased 35 years based on entry made in the *post mortem* report. He would contend that Insurance Company has filed applications under Order 41 Rule 27 of the CPC for taking additional document on record, whereby the Aadhaar Card of the deceased has been placed on record. He would submit that according to the Aadhaar card of the deceased Sohan Ram Mandavi, his date of birth is 13.05.1974 and at the time of accident, his age was 44 years & 7 months and the learned Tribunal should have considered the age of the deceased 44 years while computing the compensation; thus, he would pray to allow application moved under Order 41 Rule 27 of the CPC in both appeals and modify the awards accordingly.
4. None for the respondents though served.
5. I have heard Mr. Gulati at length and perused the record with utmost circumspection.
6. From a perusal of the reply filed by the Insurance Company, it is

apparent that no objection was raised by the insurance company with regard to age of the deceased before the learned Tribunal. Insurance company failed to examine any witness to prove the fact that age of the deceased was more than 44 years at the time of accident and this issue is being raised by the appellant at the appellate stage.

7. The provisions of Order 41 Rule 27 of the CPC reads as under:-

"27. Production of Additional Evidence in Appellate Court.

(1) The parties to an appeal shall not be entitled to produce additional evidence, whether oral or documentary, in the Appellate Court, But if-

(a) the Court from whose decree the appeal is preferred has refused to admit evidence which ought to have been admitted, or

(aa) the party seeking to produce additional evidence, establishes that notwithstanding the exercise of due diligence, such evidence was not within his knowledge or could not, after the exercise of due diligence, be produced by him at the time when the decree appealed against was passed, or

(b) the Appellate Court requires any document to be produced or any witness to be examined to enable it to pronounce judgment, or for any other substantial cause, the Appellate Court may allow such evidence or document to be produced, or witness to be examined.

(2) Wherever additional evidence is allowed to be produced by an Appellate Court, the Court shall record the reason for its admission."

8. The above-quoted provisions of law allow the appellate Court to admit additional evidence only in exceptional circumstances, namely where the Court below refused to admit material evidence, where such evidence was not available despite the exercise

of due diligence, or where the appellate Court itself requires such evidence to enable it to pronounce judgment or for any other substantial cause.

9. In the application moved under Order 41 Rule 27 of the CPC, the appellant/insurance company has not assigned any of the reasons enumerated in Order 41 Rule 27 of the CPC. Accordingly, the application is hereby rejected.
10. The findings recorded by the learned Tribunal with regard to the age of the deceased is finding of fact based on evidence, therefore, I do not find any good ground to interfere with the award impugned. Accordingly, these appeals are hereby **dismissed**.

Sd/-

Rakesh Mohan Pandey

JUDGE