



2025:CGHC:39322

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MAC No. 1267 of 2018

- 1** - Smt. Jana Bai Wd/o Chowaram Aged About 54 Years R/o Village Karhidih, Post Godhi, Police Station Nandni Nagar And District Durg Chhattisgarh.
- 2** - Ashwini Kumar S/o Late Chowaram Aged About 35 Years R/o Village Karhidih, Post Godhi, Police Station Nandni Nagar And District Durg Chhattisgarh.
- 3** - Rukhmani Late Chowaram Aged About 33 Years R/o Village Karhidih, Post Godhi, Police Station Nandni Nagar And District Durg Chhattisgarh.
- 4** - Virendra S/o Late Chowaram Aged About 31 Years R/o Village Karhidih, Post Godhi, Police Station Nandni Nagar And District Durg Chhattisgarh.

--- Appellants

Versus

- 1** - Raju Gond S/o Manrakhan Singh Gond Aged About 33 Years R/o Village Beltara, Thana Ratanpur District Bilaspur Chhattisgarh.
- 2** - Santosh Kumar Nayar S/o Kunjram Nayar Aged About 50 Years R/o Devika Vihar, Raj Kishore Nagar, Thana Sarkanda District Bilaspur Chhattisgarh.
- 3** - New India Insurance Company Limited, Branch Manager, Address - Chauhan Plaza Near Chandra Mourya Talkies, G E Road , Supela, Bhilai Tehsil And District Durg Chhattisgarh.

--- Respondents

MAC No. 419 of 2018

The New India Assurance Company Limited Through Its Branch Manager, Branch Office Chauhan Plaza, Near Chandra Maurya Talkies, G.E.Road, Supela, Bhilai, Tahsil And District Durg, Chhattisgarh

--- Appellant

Versus

1 - Smt. Jana Bai Wd/o Late Chowaram Aged About 54 Years R/o Village Karhideeh, P.O. Godhi, P.S. Nandini Nagar, District Durg, Chhattisgarh

2 - Ashwani Kumar S/o Late Chowaram Aged About 35 Years R/o Village Karhideeh, P.O. Godhi, P.S. Nandini Nagar, District Durg, Chhattisgarh

3 - Rukhmani D/o Late Chowaram Aged About 33 Years R/o Village Karhideeh, P.O. Godhi, P.S. Nandini Nagar, District Durg, Chhattisgarh

4 - Virendra S/o Late Chowaram Aged About 31 Years R/o Village Karhideeh, P.O. Godhi, P.S. Nandini Nagar, District Durg, Chhattisgarh

5 - Raju Gond S/o Manrakhan Singh Gond Aged About 33 Years R/o Village Beltara, P.S. Ratanpur, District Bilaspur, Chhattisgarh

6 - Santosh Kumar Nayar S/o Kunjram Nayar R/o Devika Vihar, Rajkishor Nagar, P.S. Sarkanda, District Bilaspur, Chhattisgarh

... Respondents

(Cause-title taken from Case Information System)

For Claimants	:	Ms. Prachi Diwan, Advocate on behalf of Mr. Rohitashva Singh, Advocate
For Owner	:	Ms. Mahi Pandey, Advocate on behalf of Mr. Anmol Sharma, Advocate
For Insurance Company	:	Mr. Pravesh Sahu, Advocate on behalf of Mr. Dashrath Gupta, Advocate

Hon'ble Shri Amitendra Kishore Prasad, Judge

Judgment on Board

06.08.2025

1. Since both the appeals arise out of same accident, they have been clubbed together, heard together and decided by this common judgment.
2. Challenge in these appeals is to the award dated 17.11.2017 passed by the learned 7th Additional Motor Accident Claims Tribunal, Durg, District Durg (C.G.) (hereinafter referred to as 'Claims Tribunal') in Claim Case No.137/2015 whereby learned Claims Tribunal allowed claim application in part of the claimants.
3. MAC No.1267/2018 has been filed by the claimants for enhancement of amount of compensation whereas MAC No.419/2018 has been filed by the Insurance Company challenging the quantum of compensation as also breach of policy conditions.
4. Brief facts of the case, in a nutshell, are that, on 05.09.2015 at around 3:00 PM, deceased Chobaram Jogde was riding his scooter (Pleasure) from Berla to his village Karhidih, driving carefully on the left side of the road. When he reached near Buddheshwar Bari at Chandi Bhatha on Berla Road, a Truck bearing registration No. CG-04-JC-2656 (for short, 'offending vehicle'), coming from the Ahiwara side, was driven rashly and negligently by non-applicant No. 1 and collided with the scooter,

resulting in a serious accident. The injured was being taken to Community Health Centre, Ahiwara in a 108 ambulance but succumbed to his injuries on the way, near Ahiwara. Following the incident, an FIR was lodged by Santosh Kumar Tandon at Police Station Berla, District Bemetara, where Crime No. 181/15 was registered under Sections 279 and 304-A IPC against non-applicant No. 1. He was arrested along with the offending vehicle and a charge sheet was submitted before the competent court.

5. The claimants have filed claim petition before the learned Claims Tribunal pleading therein that at the time of the accident, the deceased was 56 years old, working as SR Operative in SMS-02 at Bhilai Steel Plant, earning a monthly salary of Rs. 62,877/-. He was the sole breadwinner of the family, and his sudden death caused severe mental agony and financial loss to the claimants.
6. Non-applicants No. 1 and 2 has filed joint written statement and denied negligence on part of the driver, asserting that he held a valid driving license and was appointed only after due verification. They submitted that liability, if any, lies with the insurance company.
7. Non-applicant No. 3 (Insurance Company) has filed its written statement and disputed its liability, stating that the driving license number CG-1020120008735, claimed to be of the driver Raju Gond, was actually issued to another person, Sukumar Banjara, as per RTO Bilaspur records. Therefore, there was a violation of

policy conditions. The insurer also argued that the deceased had only 9 months and 25 days of service left, and hence, compensation should be limited accordingly. It further alleged contributory negligence on part of the deceased, and submitted that any compensation should be reduced proportionately.

8. On appreciation of pleadings, oral and documentary evidence brought on record by the respective parties, Claims Tribunal awarded Rs.5,51,368/- as compensation along with interest @ 9% per annum from the date of filing of the claim application till its realization and fastened the liability to pay the amount of compensation upon the driver, owner and Insurance Company of the offending vehicle.
9. Learned counsel appearing for the claimants submits that the impugned award passed by the learned Claims Tribunal is on the lower side and therefore warrants interference by this Court. It is respectfully submitted that the compensation awarded is not commensurate with the evidence on record and the settled principles of law laid down by the Hon'ble Supreme Court. It has been argued that the Claims Tribunal has also failed to not awarding any amount towards future prospects as well as erred in applying the multiplier of 8 instead of 9 in view of the judgment rendered by Hon'ble Supreme Court in the matter of **Sarla Verma (Smt.) and others v. Delhi Transport Corporation and another, (2009) 6 SCC 121**. It is further submitted that the Hon'ble

Supreme Court, in ***United India Insurance Co. Ltd. v. Satinder Kaur @ Satwinder Kaur, (2020) 11 SCC 1***, has held that an amount under conventional heads should be increased by 10% every three years to keep pace with inflation. The learned Claims Tribunal, however, overlooked this well-settled principle and awarded amounts under conventional heads without applying the mandated escalation. As such, the appeal filed by the claimants be allowed and the amount of compensation be enhanced suitably.

10. Learned counsel appearing for the Insurance Company submits that the learned Claims Tribunal had failed to consider the evidence and material available before the learned Claims Tribunal with regard to the licence and the witnesses i.e. Hiralal Dhruv (NAW-2), a Data Entry Operator from the RTO, Bilaspur and official of the insurance company Ferha Ram (NAW-3) as also the investigator's report (Ex.P-10) and held that the appellant/Insurance Company had failed to prove that the licence produced before the Claims Tribunal is a fake licence, as such, the appeal filed by the insurance company be allowed and the insurance company be exonerated to satisfy its liability.
11. Learned counsel for the owner supported the impugned award and submits that after appreciating the materials available on record, learned Claims Tribunal has rightly passed the impugned award, which does not call for any interference.

12. I have heard learned counsel for the parties and perused the record of the claim case carefully.
13. First, this Court shall deal with the appeal filed by the Insurance Company being MAC No.419/2018.
14. A close examination of paragraphs 17 to 21 of the impugned award reveals that the Claims Tribunal has recorded findings in favour of the claimants, rejecting the plea of the insurance company that it stands absolved from liability on account of the driver's license being allegedly fake.
15. Hiralal Dhruv (NAW-2), a data entry operator from the RTO, who brought a screenshot report (Ex. P-8) showing that a license was issued to one Sukumar Banjara. However, in cross-examination, he admitted that he had not checked the license Ex.D-2-C, he could not confirm whether it was genuine or fake, he had not produced any document to prove his authority or role in verifying the license and the license Ex.D-2-C showed an issue date of 16.06.2013, and endorsement for heavy goods vehicle dated 13.06.2010, with validity till 12.06.2016. Hence, no conclusive evidence emerged from his testimony to prove that the license was fake or that it was not issued in the name of Raju Singh (driver).
16. The insurance company also examined Ferha Ram (NAW-3), an administrative officer, who relied entirely on the investigation report (Ex. P-10) prepared by D.R. Sande, without having made

any personal inquiry regarding the license. He admitted in cross-examination that the insurance policy (Ex.D-9) was valid and effective on the date of the accident (05.09.2015), the policy was a package policy, covering third-party liability including death and bodily injury and he could not personally confirm whether the driver's license was fake. Thus, his evidence failed to establish the insurance company's plea. Rather, it confirmed that the insurance policy was valid and operative, extending third-party coverage.

17. Furthermore, non-applicant no. 2 (Santosh Kumar Nair), the owner of the offending vehicle, in his affidavit and cross-examination clearly stated that the driver Raju Singh was appointed after verifying the license, believing it to be genuine. He had seen the license at the time of appointment and believed it to be valid for heavy goods vehicle. Though he could not recall the exact license number, there is no evidence to suggest he acted negligently or in bad faith. He submitted supporting documents (Ex.D-1 to Ex.D-6), including license and vehicle documents. Thus, the owner discharged his responsibility as required under law, and no violation of policy conditions could be attributed to him.
18. From the aforementioned discussions, it is apparent that the insurance company, i.e., non-applicant no. 3, has failed to discharge the burden of proving that the driving licence of the

driver, Raju Singh, was fake or invalid. The evidence led by the insurer through NAW-2 and NAW-3 is inconclusive and insufficient, as neither of the witnesses could categorically establish that the said licence was not issued by the competent authority or that it was forged. Further, the owner of the offending vehicle, non-applicant no. 2, has duly verified the driving licence and, acting in good faith, appointed the driver only after satisfying himself about the validity of the licence. There is no material on record to suggest that the owner was negligent or had any knowledge regarding the licence being fake. The insurance policy covering the offending vehicle was also admittedly valid and effective on the date of the incident, and as per the terms of the package policy, third-party risks including death and bodily injury are covered.

19. Even otherwise if the facts of the case is considered in the light of the law laid down by the Hon'ble Supreme Court in the matter of ***National Insurance Co. Ltd. v. Swaran Singh and Others*** reported in **(2004) 3 SCC 297**, wherein the Hon'ble Supreme Court while dealing with the issue of fake licence, has held as under :-

“110. The summary of our findings to the various issues as raised in these petitions is as follows:

(i) Chapter XI of the Motor Vehicles Act, 1988 providing compulsory insurance of vehicles against third party risks is a social

welfare legislation to extend relief by compensation to victims of accidents caused by use of motor vehicles. The provisions of compulsory insurance coverage of all vehicles are with this paramount object and the provisions of the Act have to be so interpreted as to effectuate the said object.

(ii) An insurer is entitled to raise a defence in a claim petition filed under Section 163 A or Section 166 of the Motor Vehicles Act, 1988, inter alia, in terms of Section 149(2) (a)(ii) of the said Act.

(iii) The breach of policy condition e.g. disqualification of driver or invalid driving licence of the driver, as contained in sub-section (2)(a)(ii) of Section 149, has to be proved to have been committed by the insured for avoiding liability by the insurer. Mere absence, fake or invalid driving licence or disqualification of the driver for driving at the relevant time, are not in themselves defences available to the insurer against either the insured or the third parties. To avoid its liability towards the insured, the insurer has to prove that the insured was guilty of negligence and failed to exercise reasonable care in the matter of fulfilling the condition of the policy regarding use of vehicles by duly licenced driver or one who was not disqualified to drive at the relevant time.

(iv) Insurance companies, however, with a view to avoid their liability must not only establish the available defence(s) raised in the said proceedings but must also establish 'breach' on the part of the owner of the vehicle; the burden of proof wherefor would be on them.

(v) The court cannot lay down any criteria as to how said burden would be discharged, inasmuch as the same would depend upon the facts and circumstance of each case.

(vi) Even where the insurer is able to prove breach on the part of the insured concerning the policy condition regarding holding of a valid licence by the driver or his qualification to drive during the relevant period, the insurer would not be allowed to avoid its liability towards the insured unless the said breach or breaches on the condition of driving licence is/are so fundamental as are found to have contributed to the cause of the accident. The Tribunals in interpreting the policy conditions would apply "the rule of main purpose" and the concept of "fundamental breach" to allow defences available to the insurer under Section 149(2) of the Act.

(vii) The question, as to whether the owner has taken reasonable care to find out as to whether the driving licence produced by the driver, (a fake one or otherwise), does

not fulfill the requirements of law or not will have to be determined in each case.

(viii) If a vehicle at the time of accident was driven by a person having a learner's licence, the insurance companies would be liable to satisfy the decree.

(ix) The Claims Tribunal constituted under Section 165 read with Section 168 is empowered to adjudicate all claims in respect of the accidents involving death or of bodily injury or damage to property of third party arising in use of motor vehicle. The said power of the tribunal is not restricted to decide the claims inter se between claimant or claimants on one side and insured, insurer and driver on the other. In the course of adjudicating the claim for compensation and to decide the availability of defence or defences to the insurer, the Tribunal has necessarily the power and jurisdiction to decide disputes inter se between insurer and the insured. The decision rendered on the claims and disputes inter se between the insurer and insured in the course of adjudication of claim for compensation by the claimants and the award made thereon is enforceable and executable in the same manner as provided in Section 174 of the Act for enforcement and execution of the award in favour of the claimants.

(x) Where on adjudication of the claim under the Act the tribunal arrives at a conclusion that the insurer has satisfactorily proved its defence in accordance with the provisions of Section 149(2) read with sub-section (7), as interpreted by this Court above, the Tribunal can direct that the insurer is liable to be reimbursed by the insured for the compensation and other amounts which it has been compelled to pay to the third party under the award of the tribunal. Such determination of claim by the Tribunal will be enforceable and the money found due to the insurer from the insured will be recoverable on a certificate issued by the tribunal to the Collector in the same manner under Section 174 of the Act as arrears of land revenue. The certificate will be issued for the recovery as arrears of land revenue only if, as required by sub-section (3) of Section 168 of the Act the insured fails to deposit the amount awarded in favour of the insurer within thirty days from the date of announcement of the award by the Tribunal.

(xi) The provisions contained in sub-section (4) with the proviso thereunder and sub-section (5) which are intended to cover specified contingencies mentioned therein to enable the insurer to recover amount paid under the contract of insurance on behalf of the insured can be

taken recourse to by the Tribunal and be extended to claims and defences of the insurer against the insured by relegating them to the remedy before regular court in cases where on given facts and circumstances adjudication of their claims inter se might delay the adjudication of the claims of the victims.”

20. In the light of aforementioned law laid down by the Hon'ble Supreme Court in ***Swaran Singh (supra)***, while considering the facts and circumstances of the case in hand, it will reveal that the appellant/Insurance Company had not raised any ground in its pleadings with regard to the breach of policy conditions, which have been committed by insured for avoiding the liability and further that the insurance company has also failed to prove that the insured was guilty of negligence and failed to exercise reasonable care in the matter of fulfilling condition of the policy regarding use of vehicles by a duly licenced driver or one who was not disqualified to drive at the relevant time, but have casually taken the plea by mentioning that the driving licence placed on record is a fake driving licence, which cannot be acceptable.
21. In view of the aforesaid discussions, this Court do not find any error on the part of the learned Claims Tribunal in passing the impugned award against the Insurance Company and further that

the Insurance Company also failed to make out any case for interference.

22. Hence, the appeal filed by the Insurance Company being MAC No.419/2018 is liable to be and is hereby **dismissed**.

23. Now, this Court shall deal with the appeal filed by the claimants being MAC No.1267/2018.

24. Perusal of paragraphs 22 to 28 of the impugned award clearly shows that the findings recorded therein are in favour of the claimants, particularly in support of the dependency claim of claimant No. 1, the widow of the deceased Chovaram. The Tribunal, based on cogent documentary and oral evidence, has rightly concluded the following:

- 1. Establishment of Relationship and Dependency (Para 22)

It has been pleaded and proved that the deceased Chovaram was the husband of claimant No. 1 and father of claimants No. 2 to 4. Evidence of Ashwani Kumar (PW-1) and the pleadings clearly establish that the deceased was maintaining the applicants and was the primary breadwinner of the family. The sudden death of the deceased in the accident led to loss of financial support and affection, particularly affecting claimant No. 1.

- Proof of Employment and Salary (Para 23)

R.K. Maharana (PW-2), an official from Bhilai Steel Plant (BSP), confirmed that the deceased was working as a Senior Operator in CCS Operation SMS-2 Department and died in an accident outside the plant. Salary Slip (Ex. P-17) for August 2015 was duly proved. The gross salary was Rs. 52,877/-, and after deduction of income tax (Rs. 8,649/-), the net monthly income was assessed at Rs. 44,228/-. The employer's response under RTI (Ex.D-1) showed that only 9 months and 25 days of service remained till retirement.

- Age Assessment and Retirement Consideration (Para 24)

Although various documents mentioned the age of the deceased as 55 or 56 years, the Tribunal, based on the fact that only 9 months and 25 days remained till the normal retirement age of 60, assumed the deceased's age as 59 years, which is both logical and justified.

- Determination of Just Compensation (Para 25–26)

The Tribunal rightly emphasized that compensation should be just and reasonable, not merely based on what is claimed. The annual income of the deceased was calculated as Rs. 5,30,736/- based on the accepted monthly income of Rs. 44,228/-, and the Tribunal adopted this figure for further calculation.

- Application of Multiplier and Future Prospects (Para 28)

For the remaining service period of less than 1 year, a multiplier of 01 was applied to the actual salary income. For the post-retirement period, in absence of any other income proof, the Tribunal reasonably assumed a hypothetical income of Rs. 4,500/- per month (Rs. 54,000/- per annum) and applied a multiplier of 8, based on the deceased's age. Therefore assessed - (i) Pre-retirement dependency amount: Rs. 5,30,736 x 1 = Rs.5,30,736/-; (ii) Post-retirement dependency amount: Rs. 54,000 x 8 = Rs.4,32,000/-, total amounting to Rs.9,62,736/-.

- After deducting 50% for personal expenses (as per *Sarla Verma* guidelines for one dependent), the loss of dependency comes to Rs.4,81,368/-.

25. Considering the matter in its entirety, the finding so recorded by the learned Claims Tribunal is correct, and the Court is hereby affirm the said finding as the same is based on reliable evidence, proper appreciation of facts, and in accordance with the settled principles laid down by the Hon'ble Supreme Court for determining just and fair compensation under the Motor Vehicles Act.
26. Relying further in the matter of ***National Insurance Company Limited v. Pranay Sethi and Others, (2017) 16 SCC 680***, 15% of the established income was added towards future prospects, which comes to Rs.5,53,573/-.

27. Further, the scope of 'consortium' has been subsequently explained by the Apex Court in **Magma General Insurance Company Limited v. Nanu Ram Alias Chuhru Ram & Others, (2018) 18 SCC 130**. It can be of three types; **Parental consortium** (payable to children because of the death of parents); **Spousal consortium** (payable to the surviving spouse because of the death of the partner) and **Filial consortium** (payable to the parents because of the death of children). This being the position, the claimants are entitled to get a sum of Rs.1,60,000/- towards loss of consortium. Further, a sum of Rs.15,000/- is payable towards funeral expenses in view of the law declared in **Pranay Sethi** (supra). As per the decision rendered in **Pranay Sethi** (supra), the appellants/claimants are also entitled to get a sum of Rs.15,000/- towards loss of estate. Further, 10% enhancement in every three years is also required to be given in respect of loss of estate, funeral expenses and loss of consortium in view of the judgment rendered by the Hon'ble Supreme Court in **Satinder Kaur @ Satwinder Kaur** (supra).

28. On the basis of above recalculation, the claimants are entitled for compensation in the following manner:-

Sl. No.	Head	Calculation	Awarded amount
1.	Income of deceased @ Rs.5,30,736/- per annum	Rs.5,30,736/- per annum	
2.	15% of (1) above to be added as future	5,30,736 + 79,610 =	

	prospects	Rs.6,10,346/- (Pre-retirement dependency) 54,000 + 8,100 + 62,100 (Post- retirement dependency)	
3.	Compensation after multiplier of 1 applied in Pre-retirement dependency and multiplier of 8 applied in Post-retirement dependency	6,10,346 x 1 = Rs.6,10,346/- (Pre-retirement dependency) 62,100 x 8 = Rs.4,96,800/-	Rs.11,07,146/- (In total)
4.	1/2 (50%) of (3) deducted as personal expenses of the deceased	11,07,146 / 2 = Rs.5,53,573/-	Rs.5,53,573/-
5.	Towards loss of estate	15,000 + 3,000 with increase of 10% in every three years	Rs.18,000/-
6.	Towards loss of consortium to all the four claimants @ Rs. 40,000/-	40,000 + 8,000 = 48,000/- with increase of 10% in every three years	Rs.1,92,000/-
7.	Funeral Expenses	15,000 + 3,000 with increase of 10% in every three years	Rs.18,000/-
		Total Compensation Awarded	Rs.7,81,573/-

29. In the said circumstance, the total compensation comes to **Rs.7,81,573/-**. After deducting Rs.5,51,368/- as awarded by the Claims Tribunal, the enhancement would be **Rs.2,30,205/-**.

30. In the result :-

(i) The appeal filed by the claimants being MAC No.1267/2018 is **allowed in part**. The impugned award is modified to the extent indicated herein-above. The claimants shall be entitled to Rs.2,30,205/- in addition to what is already awarded by the Claims Tribunal. The enhanced amount will carry interest @ 9% from the date of enhancement of the award till its realization. The other conditions imposed by the learned Claims Tribunal shall remain intact.

(ii) The appeal filed by the Insurance Company being MAC No.419/2018 is **dismissed** being devoid of merit.

31. Since, it is an admitted fact that on the date of the accident, the offending vehicle was duly insured with the Insurance Company and there was no breach of policy conditions, the Insurance Company is directed to pay the enhanced amount of compensation to the claimants as modified by this Court within a period of 60 days from the date of production of certified copy of this judgment.

32. Record of the concerned Motor Accident Claims Tribunal be sent.

Sd/-

(Amitendra Kishore Prasad)
Judge