



2025:CGHC:38990

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**MAC No. 579 of 2020**

1. Kanak Das S/o Badaiek Das Aged About 49 Years R/o Village Jamdih , Post Urdara, Police Station And Tahsil Lundra, District Surguja Chhattisgarh.
2. Ameshwar Das S/o Kanak Das Aged About 18 Years Occupation Student R/o Village Jamdih, Post Urdara, Police Station And Tahsil Lundra, District Surguja Chhattisgarh,

--- **Appellants/ Applicants-Claimants**
versus

1. Sariful Ansari S/o Mohd. Yenul Ansari Aged About 38 Years Occupation Driver R/o Village Dasouti, Police Station Amba, District Orangabad (Bihar) (**Driver** of Truck No. BR26H5870)
2. Abhay Narayan S/o Ripusudan Tiwari Aged About 27 Years Occupation Owner, R/o Krishnanagar Orangabad, Police Station And District Orangabad (Bihar) (**Owner** of Truck No. BR26H5870)
3. The Branch Manager Chola Mandalam M.S General Insurance Company Ltd. Branch Office Ward No. 25 (Guru Govind Singh Ward) Second Floor Simaran Tower Near L.I.C. Building Pandari Road Raipur, District Raipur Chhattisgarh (**Insurer** of Truck No. BR26H5870)
4. Mujahid Khan S/o Mohd. Jakir Khan Aged About 22 Years Occupation Driver R/o Village Jamdih (Bagicha Para), Post Urdara, Police Station And Tahsil Lundra, District Surguja Chhattisgarh (Driver Of Bolero Camper Vehicle No. CG15CZ6288)
5. Sanjay Gupta S/o Rajkumar Gupta Aged About 45 Years Occupation Teacher R/o Village Jamdih (School Para), Post Urdara, Police Station And Tahsil Lundra, District Surguja Chhattisgarh (Owner of Bolero Camper Vehicle No. CG15CZ6288)

---**Respondents/ Non-applicants**

For Appellants	: Ms. Aakancha Vishwarkama, Adv on behalf of Mr. A.N. Pandey, Advocate
For Respondent No. 3	: Mr. Sangeet Kumar Kushwaha, Advocate



Hon'ble Shri Justice Parth Prateem Sahu
Judgment On Board

06/08/2025

1. Notice sent to Respondents No. 4 & 5 is reported unserved and the report of notice sent to Respondents No. 1 & 2 to be awaited.
2. Learned counsel for appellants submits that the first liability to satisfy the amount of compensation is upon Respondent No. 3-Insurance Company which is represented by the counsel and therefore appeal be heard finally at motion stage.
3. This submission of learned counsel for appellants with regard to first liability to satisfy amount of compensation upon Respondent No. 2-insurance company is not disputed by the counsel for Respondent No. 3. He submits that he is having no objection if the appeal is heard finally at motion stage.
4. With the consent of the parties, case is heard finally.
5. Appellants-claimants have filed this appeal under Section 173 of the Motor Vehicles Act, 1988 (for short "Act of 1988"), challenging the award dated 05.12.2019 passed by Learned First Additional Motor Accident Claims Tribunal, Ambikapur, District Surguja, Chhattisgarh (for short "Claims Tribunal") in Claim Case No. 170/2017, whereby learned Claims Tribunal allowed the application filed under Section 166 of the Act, 1988 in part and awarded total sum of ₹ 9,13,444/- as compensation in motor accidental death case, fastened liability upon non-applicants jointly and severally and first liability to satisfy amount of compensation upon non-applicant No. 3-insurance company.
6. This appeal filed by the claimants seeking enhancement of amount of compensation as awarded by the Claims Tribunal on the ground that the Claims Tribunal erred in assessing less income of deceased, not added compensation under the head of future prospects and the compensation awarded under other conventional heads to be on lower side.



7. The motor accidental death of Late Dulari Bai in an accident occurred on 01.05.2017, involvement of vehicle truck bearing number BR25-H-5870 (hereinafter referred to as "offending truck"), non-applicant No. 3 being insurer and liability to satisfy the amount of compensation fastened upon non-applicants No. 1 to 3 jointly and severally, first liability upon non-applicant No. 3 is not in dispute. In the above facts of the case, this Court is not discussing in detail the pleadings made by the claimants in their claim application, reply filed by non-applicants therein and discussed by the Claims Tribunal in the impugned award, however, only considering the submission of learned counsel for the respective parties on enhancement of compensation.
8. I have heard learned counsel for the parties and also perused the record of claim case.
9. Sofar as the first ground raised by learned counsel for appellants-claimants that the Claims Tribunal erred in assessing income of deceased as ₹ 20,082 per month only instead of ₹ 20,877 is concerned, claimants in support of income of deceased have placed on record income certificate issued by the Executive Engineer, Water Resources Department with whom deceased was working as Watch-woman. In the column of income, Basic income is mentioned as ₹ 7270, Grade Pay ₹ 1300, D.A. ₹ 11312, Tribal Allowance ₹ 120, House Rent Allowance as ₹ 600, Medical Allowance as ₹ 200 and washing allowance as ₹ 75. The allowances which were being paid to deceased could be utilized by other family member also and hence in the opinion of this Court, Claims Tribunal erred in deducting Tribal Allowance, HRA and Washing allowance from the gross salary of the deceased, it is not sustainable, accordingly the said finding of deduction of ₹ 795 is set aside. Now the income of deceased for the purpose of calculating the amount of compensation would be assessed as ₹ 20,877 per month. It is ordered accordingly.



10. So far as the second submission made by learned counsel for appellants-claimants with regard to award of future prospects is concerned, deceased on the date of accident was aged between 61-65 years, she was in permanent employment as appearing from service book placed in record as Ext. 17c. As per the decision of Hon'ble Supreme Court in the case of **National Insurance Company Limited vs. Pranay Sethi & ors**, reported in **(2017) 16 SCC 680** benefit of addition of compensation towards future prospects would be available for the employees/ victim who is aged up to 60 years and where the person was above 60 years, the said benefit would not be applicable. Therefore, Claims Tribunal has not committed any error in not adding compensation towards future prospects. Tribunal awarded ₹ 40,000 towards loss of consortium ₹ 15,000 each towards loss of estate and funeral expenses respectively which is in accordance with the settled law in **Pranay Sethi's case (supra)**. Hon'ble Supreme Court in case of **Pranay Sethi (supra)** has further observed that compensation under the head of other conventional heads is to be increased by 10% in every three years and therefore amount of compensation under the heads of funeral expenses would be increased to ₹ 16,500 from ₹ 15,000, loss of estate would be increased to ₹ 16,500 from ₹ 15,000, and loss of consortium would be increased to ₹ 44,000 from ₹ 40,000.
11. For the foregoing discussion, the amount of compensation to be awarded to appellants-claimants requires re-computation, which is as under.

Particulars	Compensation
- Annual Loss of income/ dependency = ₹ 2,50,524/- (₹ 20877x12) - Deduction of 1/2 towards personal and living expenses (₹ 2,50,524 x 1/2= ₹ 1,25,262); - Multiplier of 7 ₹ 1,25,262 x 7 = ₹ 8,76,834/-	₹ 8,76,834/-
Loss of Parental Consortium to Appellant No. 1	₹ 44,000/-
Loss of estate	₹ 16,500/-



Funeral Expenses	₹ 16,500/-
Total	₹ 9,53,834/-

12. Now the appellants/claimants shall be entitled for total sum of compensation of ₹ **9,53,834/-** instead of ₹ 9,13,444/- as awarded by learned Claims Tribunal. The enhanced amount of compensation shall carry interest @ 8% p.a. from the date of filing of claim application till its realization.

- Any amount paid to the appellants-claimants pursuant to the impugned award shall be adjusted from the amount of compensation as calculated above. Rest of the conditions as imposed by the Claims Tribunal in the impugned award shall remain intact.

13. Consequently, the appeal is allowed in part and the impugned award is modified to the extent as indicated herein-above.

Sd/-

(Parth Prateem Sahu)
Judge

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