



2025:CGHC:38920

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MAC No. 180 of 2021

The New India Insurance (Correct Name Assurance) Company Limited
Through Divisional Manager / Branch Manager, 2nd Floor, L.I.C. Premises,
Nivesh Bhawan, Jeevan Bima Marg, Commercial Complex, Pandri, District
Raipur, (Insurer Of The Offending Vehicle)

... Appellant (s)

versus

1 - Smt. Kewra Bai W/o Late Natwar Sahu Aged About 31 Years

2 - Chandani Sahu D/o Late Natwar Sahu Aged About 8 Years

3 - Pankaj Sahu S/o Late Natwar Sahu Aged About 7 Years

4 - Bedanbai Sahu W/o Sukhiram Sahu Aged About 57 Years

5 - Sukhi Ram Sahu S/o Kejuram Sahu Aged About 60 Years

Resp. No. 2 & 3 being minor Through Their Natural Guardian Mother
Respondent No. 1, All R/o Awas Para, Korar, District Kanker Chhattisgarh.,
(Claimants)

**6 - Humanlal Sahu S/o Domar Singh Aged About 30 Years R/o Gandhi Nagar,
Chilhati, Korar, District Kanker Chhattisgarh. (Driver Of Registered Owner Of
Offending Vehicle)**

... Respondent(s)

For Appellant (s)	:	Ms. Swati Agrawal, Advocate on behalf of Mr. Pankaj Agrawal, Advocate
For Resp No. 1 to 5	:	Mr. Rajendra Patel, Advocate on behalf of Mr. Sunil Sahu, Advocate

**S.B.: Hon'ble Shri Parth Prateem Sahu, Judge****Judgment On Board****05/08/2025**

1. This appeal under Section 173 of the Motor Vehicles Act, 1988 (for short "*Act of 1988*") is filed by the appellant- Insurance Company challenging award dated 19.01.2021 passed by learned Motor Accidents Claims Tribunal, Balod (C.G) vide award dated 19.01.2021 in Claim Case No. 65 of 2019.
2. Facts relevant for disposal of this appeal are that respondents No. 1 to 5/claimants filed an application under Section 166 of the Act of 1988 before the Claims Tribunal pleading therein that on 06.02.2019 Natwar alias Natwarlal came to Dhamtari to buy grocery items. When he was returning sitting in the cabin of goods vehicle no. CG-19 H-0469 (hereinafter referred to as '*offending vehicle*'), driver and owner of the vehicle namely Humanlal Sahu/non-applicant No.1 driving the vehicle rashly and carelessly dashed the vehicle against a roadside tree and caused an accident. Due to serious injuries suffered by Natwar alias Natwarlal Sahu in the accident, he died during treatment in Narayana Hospital Raipur. Before accident deceased Natwar alias Natwarlal Sahu was aged about 35 years, was earning Rs.3,00,000/- per annum from the grocery business. Due to untimely death of Natwar alias Natwarlal Sahu in motor accident, claimants suffered financial loss, claimed Rs. 70,00,000/- as compensation from the non-applicants under different heads.
3. Non-applicant No. 1 by filing his written statement denied the pleadings made in the claim application. It was further pleaded that the accident was not because of negligent driving, but due to flash light of a truck coming from opposite side. At present the shop of the deceased is being run as before. On



the date of the accident, the offending vehicle was duly insured with non-applicant No.2/insurance Company, therefore, liability to pay amount of compensation, if any, would be upon non-applicant No.2.

4. Non-applicant No.2/insurance company by filing its written statement resisted the claim and pleaded that offending vehicle causing accident was a commercial vehicle in which deceased was riding as a passenger in violation of breach of conditions of insurance policy. The applicants have claimed exaggerated compensation.

5. Learned Claims Tribunal, upon appreciation of pleadings and evidence brought on record by respective parties, held that deceased Natwar alias Natwarlal Sahu died in an accident arising out of rash and negligent driving of the offending vehicle by non-applicant No.1. Breach of conditions of insurance policy was not found to be proved, calculated the amount of compensation and awarded Rs. 39,15,835/- as total compensation and fastened liability to satisfy the amount of compensation upon appellant/non-applicant No. 2-Insurance Company.

2.Learned counsel for the appellant submits that insurance company has filed this appeal challenging the impugned award on the ground that learned Claims Tribunal erred in assessing age of deceased as 35 years based on postmortem report overlooking the date of birth as mentioned in the income tax return submitted by claimants to prove income wherein date of birth of deceased is mentioned as 17.09.1980, according to which age of deceased on the date of accident was about 39 years. She also contended that if, age of deceased is to be considered based on date of birth mentioned in income tax



return as 39 years, application of multiplier would be 15 instead of 16 as applied by Claims Tribunal. She contended that learned Claims Tribunal assessed loss of income for the claimants according to average income from business as mentioned in Income Tax Return of the year 2016-17, 2017-18 and 2018-19. According to evidence of claimants, deceased was running a grocery shop and therefore even after the death of owner of business, business will remain there to be run by the claimants, hence, there cannot be total loss of income but for loss to the extent of engaging person to run business. She lastly submits that on the date of accident offending vehicle was being plied without there being any valid and effective permit. The permit was issued on 19.02.2019 and was valid up to 18.02.2024, whereas, accident occurred on 06.02.2019. She submits that this submission is made by her based on the investigation report of the Investigator of insurance company and hence appellant will not be liable to pay compensation. In support of her submission, she places reliance upon decision in the case of **New India Assurance Co. Ltd. Vs. Yogesh Devi & Ors.** (Civil Appeal No.1987 of 2012, decided on 10.02.2012).

3. Learned counsel for the respondents No. 1 to 5/ claimants would oppose the submission of learned counsel for the appellant insurance company and would submit that Claims Tribunal has assessed income of deceased as Rs.2,24,520/- per annum and monthly income would come to just above Rs.20,000/-. Even if the submission of learned counsel for the appellant is to be accepted then two persons are required to be deputed to run grocery business, one an employee and that employee is to be supervised by any one of the family member. Accident is of the year 2019 and minimum wages fixed



for unskilled labourer as notified for the period from 01.10.2018 to 31.03.2019 for C- zone area was Rs.8140/-. For running the business like grocery shop an educated person is required to be appointed who can be considered to be a 'skilled labourer' for whom minimum wages is fixed as Rs.9570/-. He further contended that to supervise the work of employee if one family member is to be deputed then definitely his wages would not be less than Rs.9570/- and therefore total would be about Rs.20,000/-.

4.I have heard learned counsel for the parties and also perused record of claim case.

5. So far as the assessment of loss of income of deceased is concerned, there is substantial force in the submission of learned counsel for the respondents/claimant. As per the notification issued by the competent authority under the Minimum Wages Act, 1947 wages fixed for unskilled labourer as notified for the period from 01.10.2018 to 31.03.2019 for C- zone area was Rs.8140/-. For running business an educated person is required to be appointed who can be considered to be a 'skilled labourer', for whom wages is fixed as Rs.9570/-. To supervise the work of employee if one family member is to be deputed then definitely his wages would not be less than Rs.9570/- and therefore total would come to Rs.19,040/- i.e. nearly of Rs.20,000/-. Further AW-1 Smt. Kevra Bai, wife of deceased, while cross-examining by non-applicant No.2/insurance company, denied the suggestion that it is incorrect to say that the shop from which his deceased husband used to earn is currently operational. She further denied the suggestion that she is still running said grocery shop. Non-applicant No.2/insurance company did not led any evidence to prove that the said grocery shop is still running by the claimants and earning



income from that shop.

6. For the aforementioned discussions in the facts of case and looking to the loss of income assessed by Claims Tribunal I do not find any good ground to interfere with the finding recorded assessing loss of income. The object under the Act of 1988 is to award just and fair compensation to family members of deceased. Deceased was survived by widow, two minor children aged about 8 and 7 years and old aged parents of 61 and 64 years.

7. So far as second submission of learned counsel for the appellant of age of deceased is concerned, Claims Tribunal has assessed the age of deceased as 35 years . There is no mention as to what was the consideration for arriving at such a conclusion. In the income tax return filed on record as Ex.P-27, date of birth of deceased, as mentioned in computation of income sheet attached with income tax return is 17.09.1980 and therefore on the date of accident i.e 06.02.2019 age of the deceased would be in between 36 to 40 years.

8. According to decision of Hon'ble Supreme Court in the case of **Sarla Verma (Smt.) and Ors. Vs. Delhi Transport Corporation and Anr.** (2009) 6 SCC 121, appropriate multiplier in case of deceased in between 36-40 years is 15 and therefore appropriate multiplier for computation of compensation would be 15 instead of 16 . It is ordered accordingly.

9. So far as the last submission of learned counsel for the appellant that on the date of accident offending vehicle was not plying under the valid permit is concerned, documents of criminal case would show that police during course of investigation has seized permit, however, appellant insurance company has



not brought it as evidence before the Claims Tribunal. No witness has been examined to prove their plea that the offending vehicle was being plied without any permit which is in breach of policy conditions. Finding recorded by the Claims Tribunal that claimant failed to prove that, offending vehicle was plied without there being any effective permit on the date of accident, in the opinion of this Court, is based on appreciation of facts and evidence available on record which also does not call for any interference. The said submission of appellant is sans merit without any supportive evidence and therefore it is liable to be and is hereby repelled.

10. For the foregoing discussions, I find it appropriate to re-compute the amount of compensation as under:-

S. N.	Heads		Compensation
1.	(A) Loss of Income/dependency Annual Income = 2,24,520/- (B) Addition towards future prospects @ 40% (2,24,520 x 40 % =89808) $2,24,520 + 89808 = 3,14,328$ (C) Deduction of 1/4 towards personal and living expenses (3,14,328 x 1/4= 78,582) $3,14,328 - 78,582 = 2,35,746/-$ (D) Multiplier of 15 $2,35,746 \times 15 = 35,36,190$	:	Rs. 35,36,190
2.	Medical Expenses	:	(+) Rs. 73,899
3.	Spousal Consortium	:	(+) Rs. 40,000
4.	Funeral Expenses	:	(+) Rs. 15,000
5.	Loss of Estate	:	(+) Rs. 15,000
	Total compensation	:	Rs. 36,80,089

11. Now the respondents/claimants are awarded total compensation of



Rs. 36,80,089/- instead of Rs.39,15,835/- as awarded by the Claims Tribunal.

12. At this stage learned counsel for the appellant would submit that learned Claims Tribunal erred in awarding interest at the rate 10% which is much on higher side and prays for reducing the same.

13. Considering the submission of learned counsel for the appellant and date of accident, bank rate interest prevailing on date of accident on fixed deposit, I find it appropriate to reduce interest from 10% to 9%. It is directed that total amount of compensation awarded to the claimants shall carry interest @ 9% per annum from the date of filing of claim application till its realization. Any amount of compensation already paid to the claimants shall be adjustable from the total amount of compensation which has now been calculated and awarded by this Court. Rest of the conditions of impugned award shall remain intact.

14. In the result, appeal is allowed in part. Impugned award is modified to the extent as indicated herein above.

Sd/-
(Parth Prateem Sahu)
Judge