



2025:CGHC:38738



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HIGH COURT OF CHHATTISGARH AT BILASPUR**MAC No. 610 of 2020**

1-Firan Lal Bareth S/o Ramadhar Bareth, Aged About 33 Years R/o Nawapara, Police Station Akaltara, District Janjgir Champa (Chhattisgarh) At Present Resident Of F.C.I. Godown, Tarbahar, Police Station Tarbahar, Tahsil And District Bilaspur Chhattisgarh.....Claimant

2 - Akash Bareth, S/o Firan Lal Bareth, Aged About 10 Years Minor, Represented Through Father Firan Lal Bareth, R/o Nawapara, Police Station Akaltara, District Janjgir Champa (Chhattisgarh) At Present Resident Of F.C.I. Godown, Tarbahar, Police Station Tarbahar, Tahsil And District Bilaspur Chhattisgarh.....Claimant

3 - Prakash Bareth, S/o Firan Lal Bareth, Aged About 8 Years Minor, Represented Through Father Firan Lal Bareth, R/o Nawapara, Police Station Akaltara, District Janjgir Champa (Chhattisgarh) At Present Resident Of F.C.I. Godown, Tarbahar, Police Station Tarbahar, Tahsil And District Bilaspur Chhattisgarh.....Claimant

...Appellants/Applicants**versus**

1- Vijay Kumar Bareth S/o Shatrughan Bareth, Aged About 22 Years R/o Village Sukli, Police Station Janjgir, District Janjgir Champa Chhattisgarh. (Driver Of Motorcycle No. C.G.-10/Z- 2380)

2 - Sitaram Nirmalkar S/o Badruram Nirmalkar, R/o House No. 211, Parsada Bharni, Police Station Sakri, Tahsil Takhatpur, District Bilaspur Chhattisgarh. (Owner Of Motorcycle No. C.G.-10/ Z-2380)

3 - Tata A.I.G. General Insurance Company, Through The Branch Manager, Branch Office T-8, Fourth Floor, Gwalani Chamber, Vyapar Vihar, Main Road,



Bilaspur, Tahsil And District Bilaspur Chhattisgarh. (Insurer Of Motorcycle No. C.G.-10/ Z-2380)

... Respondents/Non-Applicants

For Appellants	: Ms. Pranoti Das, Advocate appears on behalf of Mr. Goutam Khetrapal, Advocate
For Respondent No. 3	: Mr. Saurabh Gupta, Advocate appears on behalf of Mr. Saurabh Sharma, Advocate

Hon'ble Shri Justice Parth Prateem Sahu

Judgment On Board

05.08.2025

1. Counsel for the appellants submits that this appeal is for enhancement of amount of compensation awarded by learned Claims Tribunal against the death of wife of appellant/claimant no. 1 and mother of appellants no. 2 and 3/claimants no. 2 and 3. Liability to satisfy the amount of compensation is fastened upon non-applicant no. 1 to 3 jointly and severally, however, first liability to pay compensation is upon non-applicant no. 3/Insurance Company being insurer of the offending vehicle. Insurance company is represented by counsel and therefore, appeal be heard finally at motion stage.
2. Mr. Saurabh Gupta, Advocate for Respondent no. 3 does not dispute submission of counsel for the appellants of liability to satisfy amount of compensation upon insurance company. He however, submits he is having no objection if the appeal is heard finally.
3. On due consideration of the submission made by counsel for the respective parties, appeal is heard finally at motion stage.
4. Appellants-claimants have filed this appeal under Section 173 of the Motor Vehicles Act, 1988 (for short "Act of 1988") seeking enhancement of amount of compensation, awarded vide award dated



30.11.2019 passed by Learned Seventh Additional Motor Accident Claims Tribunal, Bilaspur, Chhattisgarh (for short "Claims Tribunal") in Claim Case No. 10/2019, whereby learned Claims Tribunal allowed the application filed under Section 166 of the Act, 1988 in part and awarded total sum of ₹ 14,83,150/- as compensation in motor accidental death case.

5. Facts of the case relevant for disposal of this appeal are that on 21.05.2018 deceased- Radhika Bai went to Champa for getting her womb sonographed along with non-applicant no. 1 and while she was returning on motorcycle bearing registration no. CG 10 Z 2380, driven by non-applicant no. 1 rashly and negligently, it met with an accident. In the accident, deceased suffered grievous injuries on her head and other parts of the body. She was initially taken to District Hospital, Janjgir but looking to her serious condition she was immediately referred to higher center for her treatment. She was admitted to Life Care hospital, Bilaspur, however, she and unborn child growing in her womb were succumbed to injuries during course of treatment.
6. Applicants-claimants, who are husband and children of deceased- Radhika Bai, filed an application under Section 166 of the Act of 1988 seeking compensation of ₹ 25,59,000/- from non-applicant no. 1 to 3, pleading therein that on the date of accident deceased was a healthy person aged about 26 years. She was doing the work of Tailoring and earning ₹ 8,000 per month.
7. Respondents No. 1 & 2/ Non-applicants No. 1 & 2 -driver and owner of the offending vehicle filed their reply to application, denying the facts pleaded therein. It was further pleaded that on the date of accident, offending vehicle was insured with non-applicant No. 3/Insurance



Company, and non-applicant no. 1/driver was possessing effective and valid driving license, thus, if there is any liability, it would be of non-applicant No. 3/ Insurance Company.

8. Respondent No. 3/ Non-applicant No. 3/ Insurance Company filed reply to claim application. While denying all the adverse pleadings made in the claim application, it was further pleaded that on the date of accident the offending vehicle was plied in breach of policy conditions, driver of offending vehicle was not possessed with valid and effective driving license, thus, insurance company is not liable to pay the compensation, if any, passed by the Claims Tribunal.
9. Learned Claims Tribunal, upon appreciation of pleadings and evidence placed on record by respective parties, held that deceased -Radhika Bai died because of grievous injuries suffered by her in an accident arising out of rash and negligent driving of offending vehicle by non-applicant No. 1/driver. Breach of conditions of insurance policy was not found to be proved. Tribunal calculated the amount of compensation and awarded ₹ 14,83,150/- as total compensation including the compensation of Rs. 2,50,000/- towards death of fetus in the womb of deceased with interest @ 8% p.a. from the date of filing of claim application till its realization and fastened the liability to satisfy the award upon non-applicants therein, jointly and severally.
10. Learned counsel for appellants-claimants would submit that Claims Tribunal erred in assessing income of deceased as only ₹ 6,000/- per month, overlooking the date of accident ie., 21.05.2018 and nature of occupation and income of the deceased as pleaded in claim application. She next contended that learned Claims Tribunal has not awarded compensation under the head of loss of consortium to all the



claimants but for claimant no. 1 ie. the husband of the deceased. She submits that the compensation of Rs. 2,50,000/- towards the death of fetus is also on a lower side by referring to the decision of Hon'ble Supreme Court in the case of **Kishan Gopal & Anr. Vs. Lala & Ors. (2014)1 SCC 244** wherein it was held that the compensation even for the fetus would be Rs. 5 lakhs.

11. Learned counsel for Respondent No. 3-Insurance Company opposes the submission of learned counsel for appellants-claimants and would submit that the amount of compensation awarded by the Claims Tribunal in the facts of the case is just and proper and it does not call for any interference. In absence of proof of income as pleaded in the claim application, Claims Tribunal justified in assessing income on notional basis. He further submits that the Claims Tribunal considering that the deceased was having an unborn child in her womb justified in awarding Rs. 2,50,000/-.
12. I have heard learned counsel for the parties and also perused the record of claim case.
13. So far as submission made by learned counsel for appellants-claimants with regard to income of deceased on the date of accident is concerned, the occupation of deceased is pleaded to be working as Tailor, however, admittedly, there is no clinching and admissible piece of evidence available in record to prove nature of occupation and income of deceased as pleaded in the claim application. In the aforementioned facts of the case and evidence available on record, Claims Tribunal justified in taking recourse to assess income of deceased on notional basis, however, fell into error in not assigning any reason to assess income of the deceased as Rs. 6,000/- per



month and in not taking into consideration factors like age of deceased, date of accident, cost of living, price index and wages prevailing on the date of accident ie., of the year 2018, in the area of which deceased was resident and has not considered minimum wages fixed by the Competent Authority for the unskilled, semi skilled and skilled labourer. As the appellant-claimant failed to prove nature of occupation and income of deceased, I find it appropriate to hold that the occupation of deceased to be one of the unskilled labourer.

14. As there is no material to suggest the wages prevailing at the place where the deceased was resident of. As per the notification issued by the Competent Authority under the Minimum Wages Act, 1948, minimum wages fixed for the period from 01.10.2017 till 31.02.2018 for unskilled labourer for B-Zone area is ₹ 8,450/- per month. The place of residence of the claimants who are husband and children of deceased would show that they are resident of Nawapara, Police Station-Akaltara, District- Janjgir-Champa, Chhattisgarh, which falls under the C-Zone area. The minimum wages fixed by the Competent Authority for unskilled laborer residing within C-Zone area is Rs. 7,390/- per month. Claimants in their claim application have pleaded monthly income of deceased Rs. 8,000/- which was not proved. Therefore, I find it appropriate to determine monthly income of deceased on the date of accident as Rs. 7,930/- per month. It is ordered accordingly.
15. Further perusal of award would show that the Claims Tribunal has correctly added 40% of the assessed income towards future prospects, applied deduction of 1/3rd and multiplier of 17, which are to the tune of decisions of Hon'ble Supreme Court in the case of **Sarla Verma & Ors. Vs. Delhi Transport Corp. & Anr, (2009) 6 SCC 121** and in the case



of **National Insurance Co. Ltd. Vs. Pranay Sethi (2017) 16 SCC 680.**

Learned Claims Tribunal further awarded ₹ 15,000 towards loss of estate, ₹ 15,000 towards funeral expenses and ₹ 40,000 has been awarded towards loss of consortium to appellant No. 1, which are to the tune of decisions of Hon'ble Supreme Court in the case of **National Insurance Company Limited vs. Pranay Sethi & ors**, reported in **(2017) 16 SCC 680**. Hon'ble Supreme Court in the case of **Magma General Insurance Company vs. Nanu Ram alias Chuhuru Ram and others** reported in **(2018) 18 SCC 130**, has held that apart from awarding loss of spousal consortium to widow/ husband, children of the deceased will also be entitled for loss of consortium under the head of loss of parental consortium. In the case at hand, appellants No. 2 & 3 are children of the deceased, therefore, they will also be entitled for loss of parental consortium of ₹ 40,000/- each. It is ordered accordingly.

16. As held by Hon'ble Supreme Court in the case of **National Insurance Company Limited vs. Pranay Sethi & ors**, reported in **(2017) 16 SCC 680** the compensation awarded under the head of loss of consortium, loss of estate and funeral expenses is to be increased by 10% after every three years.
17. In the aforementioned facts of the case, considering increase of 10% in other conventional heads the amount of compensation under head of consortium to claimants no. 1 to 3 is also to be increased to 10%, accordingly. Claimant no. 1 to 3 will be entitled for compensation under the head of consortium and is awarded Rs. 44,000/- each. Further Rs. 16,500/- each under the head of loss of estate and funeral expenses.



18. For the foregoing discussion, the amount of compensation to be awarded to appellants-claimants requires re-computation, which is as under.

Particular	Compensation
- Annual Loss of income/ dependency = Rs. 95,160/- (Rs. 7,930x12) - Addition towards loss of future prospects @ 40% (Rs. 95,160 + 40% of Rs. 95,160 = Rs. 1,33,224/-) - Deduction of 1/3 towards personal and living expenses (Rs. 1,33,224/- x 1/3= Rs. 44,408); Rs. 1,33,224 – Rs. 44,408 = Rs.88,816/- - Multiplier of 17 Rs. 88,816 x 17 = Rs. 15,09,872/-	Rs. 15,09,872/-
Death of fetus	Rs. 2,50,000/-
Loss of Spousal Consortium to Appellant No. 1	Rs.44,000/-
Loss of parental consortium to Appellants No. 2 & 3 (Rs. 44,000 each)	Rs.88,000/-
Loss of estate	Rs. 16,500/-
Funeral Expenses	Rs. 16,500/-
Total	Rs.19,24,872/-

19. Now the appellants/claimants shall be entitled for total sum of compensation of ₹ 19,24,872/- instead of ₹ 14,83,150/- as awarded by learned Claims Tribunal. The amount of compensation shall carry simple 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.



20. In the result, 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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