



2026:CGHC:13516



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NAFR**HIGH COURT OF CHHATTISGARH AT BILASPUR****MAC No. 503 of 2018**

- Branch Manager, H.D.F.C. Ergo General Ins. Co. Ltd. Branch Office- 3rd Floor, Chawla Complex, Devendra Nagar Road Sai Nagar, Raipur, Tahsil And District Raipur, Chhattisgarh (Insurer Of Motor Cycle Registration No. C.G.-11-D.K./8661), District : Raipur, Chhattisgarh

... Appellant**versus**

1. Smt. Fulkumari W/o Late Manmohan Lal Ratre Aged About 30 Years R/o Loharsi (Son), Tahsil And Thana Mastruri, District Bilaspur, Chhattisgarh.
2. Ku. Shreya D/o Late Manmohan Lal Ratre Aged About 10 Years Minor Representing Through Mother Smt. Fulkumari Wd/o Late Manmohan Lal, Age 30 Years, R/o Loharsi (Son), Tahsil And Thana Mastruri, District Bilaspur, Chhattisgarh.
3. Ku. Sneha D/o Late Manmohan Lal Ratre Aged About 7 Years Minor Representing Through Mother Smt. Fulkumari Wd/o Late Manmohan Lal, Age 30 Years, R/o Loharsi (Son), Tahsil And Thana Mastruri, District Bilaspur, Chhattisgarh.
4. Shreyansh S/o Late Manmohan Lal Ratre Aged About 5 Years Minor Representing Through Mother Smt. Fulkumari Wd/o Late Manmohan Lal, Age 30 Years, R/o Loharsi (Son), Tahsil And Thana Mastruri, District Bilaspur, Chhattisgarh.
5. Bhagwat Prasad S/o Late Kanhaiyyalal Aged About 60 Years R/o Loharsi (Son), Tahsil And Thana Mastruri, District Bilaspur, Chhattisgarh.
6. Smt. Santopi W/o Bhagwat Prasad Aged About 50 Years R/o Loharsi (Son), Tahsil And Thana Mastruri, District Bilaspur, Chhattisgarh (Claimants), District Bilaspur, Chhattisgarh.
7. Radheshyam Sahu S/o Devnarayan Sahu Aged About 26 Years R/o Post Hasuwa, Thana Girdauri, District Balodabazar, Chhattisgarh (Rider Of Motor Cycle Registration No. C.G.11-D.K.-8661), District Balodabazar-Bhathapara, Chhattisgarh.



8. Sudama Sahu S/o Narayan Sahu R/o Kikirda Tahsil And Thana Bamhnidih, District Janjgir-Champa, Chhattisgarh (Owner Of Motor Cycle Registration No. C.G.11-D.K.-8661), District Janjgir-Champa, Chhattisgarh.

... Respondents

(Cause title taken from Case Information System)

For Appellant	:	Mr. Ashish Pathak, Advocate.
For Respondents No.7 & 8	:	Ms. Aditi Diwan, Advocate.

Hon'ble Shri Justice Amitendra Kishore Prasad

Order on Board

20/03/2026

1. Heard on I.A. No.1/2018, application for condonation of delay in filing the appeal.
2. On due consideration and for the reasons mentioned in the application, I.A. No.1/2018 is allowed and the delay of 5 days in filing the appeal is hereby condoned.
3. Also heard on I.A. No.3/2018, application for exemption from filing the certified copy of the order under Section 170 of the Motor Vehicles Act, 1988 (for short "M.V. Act").
4. On due consideration and for the reasons mentioned in the application, I.A. No.3/2018 is allowed and the appellant is exempted from filing certified copy of the order under Section 170 of the M.V. Act.
5. With the consent of both the parties, this appeal is heard finally.
6. This is an appeal filed by the appellant/insurance company, challenging the impugned award dated 14.12.2017 (Annexure-A/1) passed by the learned Fourth Upper Motor Accident Claims Tribunal, Bilaspur, District Bilaspur (C.G.) (for short "Claims Tribunal") in Motor Accident Claim Case No.425/2016.
7. By the impugned award, against the claim of Rs.32,50,000/-, the learned Claims Tribunal awarded compensation of Rs.9,90,000/- in favour of the



respondents No.1 to 6/claimants.

8. Learned for the appellant submits that in cross-examination, the respondent No.1 admitted that in post mortem report, it is mentioned that the deceased's bike dashed to the another bike due to which he fell down and died, whereas in discharge summary of hospital, it is mentioned that the deceased fell down from own vehicle and as such the offending vehicle was not involved in the accident but wrongly liability has been fastened upon the insurance company by the learned Claims Tribunal. The learned Claims Tribunal has also awarded compensation on the higher side. Therefore, the impugned award may kindly be set aside.
9. Learned counsel appearing for the respondents No.7 & 8 submits that no breach of policy conditions was done, as such the liability has rightly been fastened upon the insurance company.
10. The learned Claims Tribunal has given the specific finding while deciding the issue No.1 that the deceased died due to dash by the driver of offending vehicle who was riding the vehicle rashly and negligently, as such the deceased suffered serious injuries and thereafter died during treatment. This finding has not been rebutted by the appellant insurance company and other non applicants in the evidence and no breach of policy conditions was done, as such the liability to pay compensation to the claimants has rightly been fastened upon the appellant insurance company, thus this finding recorded by the learned Claims Tribunal is not required to be interfered with.
11. So far as the compensation awarded in favour of the claimants is concerned, from perusal of the record, it appears that the compensation awarded on conventional heads is not proper, as there are as many as 6 claimants in the present case and the consortium has also not been awarded as per the law laid down by the Hon'ble Supreme Court in the matter of **National Insurance Company Limited Versus Pranay Sethi and Others**, reported in (2017) 16



SCC 680, thus the award needs to be enhanced suitably.

12. Recently, in a judgment rendered by the Hon'ble Supreme Court in case of **Surekha W/o Rajendra Nakhate and others v. Santosh S/o Namdeo Jadhav and others** passed in **Civil Appeal No.476 of 2020** dated **21.1.2020**, in which the Hon'ble Supreme Court has held as under:-

“2. Denial of enhanced compensation on ground that claimants failed to file cross appeal, Court should not take hyper technical approach and ensure that just compensation is awarded to affected person or claimants.

3. By now, it is well-settled that in the matter of insurance claim compensation in reference to the motor accident, the court should not take hyper technical approach and ensure that just compensation is awarded to the affected person or the claimants.”

13. On a careful reading of the aforesaid judgment, it is apparent that even in the absence of a cross-appeal or cross-objection, the Court is empowered to award just and proper compensation, keeping in mind the benevolent object of the legislation under the Motor Vehicles Act.
14. Accordingly, the enhancement would be in following manner:-

S. No.	Particulars	Compensation
1.	consortium is awarded @ Rs.40,000/- with 10% increase in every 3 years total Rs.48,000/-	Rs.48,000 x 6 = 2,88,000/-
2.	Funeral Expenses with 10% increase in every 3 years	Rs.18,000/-
3.	loss of estate with 10% increase in every 3 years	Rs.18,000/-
	TOTAL	Rs.3,24,000/-

15. Thus, total amount of Rs.3,24,000/- (Rs.2,88,000 + Rs.18,000 + Rs.18,000)



is enhanced. Since the claimants/respondent Nos.1 to 6 have already been awarded total compensation of Rs.9,90,000/-, as such after enhancement by this Court, they are entitled to total compensation of Rs.13,14,000/- (Rs.9,90,000 + Rs.3,24,000). The amount, if any, received by the claimants shall be adjusted from the remaining amount of compensation.

16. Since no one appears on behalf of the claimants as such the concerned DLSA shall inform the claimants about the enhancement of the amount, enhanced by this Court.
17. With the aforesaid observation and direction, the appeal is partly allowed in favour of the respondents No.1 to 6/claimants to the extent indicated hereinabove.
18. Accordingly, the instant appeal is hereby disposed of.

Sd/-
(Amitendra Kishore Prasad)
Judge