



2025:CGHC:48286

NAFR**HIGH COURT OF CHHATTISGARH AT BILASPUR****MAC No. 603 of 2018**

1 - Chirag Sharma S/o Late Shri Dilip Sharma Aged About 1 Years
Minor Through Natural Guardian Through Grand Mother Smt. Pinki
Sharma, R/o H.No.-I-71-Sector-1, Kashiram Nagar, District Raipur,
Chhattisgarh, District : Raipur, Chhattisgarh

2 - Pinki Sharma W/o Late Ram Naresh Sharma Aged About 48 Years
R/o H.No.-I-71-Sector-1, Kashiram Nagar, District Raipur, Chhattisgarh
(Claimants), District : Raipur, Chhattisgarh

...Appellants**versus**

1 - Mahendra Singh S/o Late Daya Singh Aged About 42 Years R/o
Near Saksharta Chowk, Camp-1, P.S. Chavni, Bhilai, District Durg,
Chhattisgarh (Driver, Bus No. Cg/f/9000), District : Durg, Chhattisgarh

2 - Kanker Roadways Company Pandri R/o Near Gandhi Udhyan, Civil
Lines, District Raipur, Chhattisgarh (Owner Bus No. Cg/f/9000), District :
Raipur, Chhattisgarh

3 - The New India Insurance Company Ltd. By Regional Manager,
Regional Office Madina Building Jail Road, District Raipur, Chhattisgarh
(Insurer Bus No. Cg/f/9000), District : Raipur, Chhattisgarh



... Respondents

(Cause-title taken from the Case Information System)

For Appellants :- Mr. Anamika Jain, Advocate on behalf
of Mr. Devershi Thakur, Advocate.

For Respondent No. 3 :- None, though served.

For Respondent No. 1 & 2:- None.

SB- Hon'ble Shri Justice Amitendra Kishore Prasad**Order On Board****19.09.2025**

1. This appeal is filed by the claimants against the award dated 20.02.2017, passed by the 5th Additional Motor Accident Claims Tribunal, Raipur (C.G.) in Claim Case No. 747/2015, whereby a total compensation of ₹10,32,000/- was awarded along with interest at the rate of 9% per annum from the date of the application until realization, fastening liability jointly and severally on non-applicant Nos. 1 to 3. The Tribunal further held that the primary liability for payment of compensation to the claimants would rest with non-applicant No.3, i.e., the Insurance Company.
2. As per the averments made in the claim petition, on 16.06.2015 at about 4:15 a.m., the deceased- Dilip Sharma, aged about 25 years, was travelling from Kanker to Raipur in a bus owned by Kanker Roadways Company, bearing Registration No. CG-19-F/9000 (hereinafter referred to as the 'offending vehicle'). Near Village Telgara, within the jurisdiction of Police Station Charama, District North Bastar Kanker, the driver of the said bus (non-applicant No.1), driving rashly and negligently, struck the



offending vehicle against another vehicle in front. Consequently, the bus fell into a ditch and collided with a tree, as a result of which, the deceased, who was seated in the front portion of the offending vehicle, sustained grievous injuries and died on the spot. At the time of the accident, the offending vehicle was owned by non-applicant No.2 and was insured with non-applicant No.3 (the Insurance Company).

3. Upon the claim petition being filed by the claimants under Section 166 of the Motor Vehicles Act, wherein it was, *inter alia*, stated that at the time of the accident, the deceased was earning ₹10,000/- per month by working as a Helper/Assistant Driver with Kanker Roadways, the Tribunal, after considering the evidence led by both parties, passed the award as mentioned in paragraph 1 of this judgment.
4. Learned counsel for the appellant submits that the Tribunal has wrongly assessed the monthly income of the deceased at ₹4,500/-, whereas it should have been ₹5,787/- per month, as per the minimum wages prevailing at the relevant time. She further submits that the amount awarded by the Tribunal under the conventional heads is also on the lower side and deserves to be suitably enhanced. Reliance has been placed upon the decisions of Hon'ble Supreme Court in ***Magma General Insurance Company Limited vs. Nanu Ram @ Chuhru Ram and others reported in (2018) 18 SCC 130 & National Insurance Company Limited vs Pranay Sethi and others, (2017) 16 SCC 680.***



5. I have heard learned counsel for the appellant and perused the record.
6. As regards the income of the deceased, though the claimants, in the claim petition, pleaded that at the time of the accident, deceased -Dilip Sharma was earning Rs.10,000/- per month by working as a Helper/Assistant Driver with Kanker Roadways, but no documentary evidence in support thereof has been produced by the claimants to substantiate the said fact. However, the learned Claims Tribunal, on the basis of notional income, assessed the monthly income of the deceased at Rs.4,500/-, which, in the considered opinion of this Court, is not correct. Therefore, considering the facts and circumstances of the case, the nature of the deceased's work, and the minimum wages prevailing at the relevant time, this Court proposes to recompute the compensation by taking the monthly income of the deceased as Rs.5,787/-.
7. As regards future prospects, the Tribunal, after considering the pleadings and the oral and documentary evidence available on record, determined the age of the deceased to be 25 years. However, it erred in awarding 50% towards future prospects, which, in the considered opinion of this Court, is not just and proper. The Hon'ble Supreme Court, in the case of *Pranay Sethi* (supra), has held that the appropriate addition towards future prospects for self-employed persons below the age of 40 years is 40%. Therefore, in the present case, considering that the



deceased was 25 years old, as assessed by the Tribunal, the applicable percentage for future prospects would be 40% in place of 50% as done by the Tribunal.

8. So far as the amount awarded by the Tribunal under the conventional heads is concerned, in the present case, the Tribunal awarded Rs.50,000/- towards loss of consortium and Rs.10,000/- towards funeral expenses, which, in the considered opinion of this Court, is on the lower side. The scope of 'consortium' has been subsequently explained by the Apex Court in *Magma General Insurance Company Limited (supra)*. 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.40,000/- each 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 as per the law laid down by the Hon'ble Supreme Court in the matter of ***United India Insurance Company Limited v. Satinder Kaur @ Satwinder Kaur and Others reported in***

**AIR 2020 SC 3076.**

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

S. No.	Heads	Calculation (in rupees)
1	Income of the deceased	Rs.5,787/- per month i.e. Rs.69,444/-
2.	40% of (i) above to be added towards future prospects.	Rs.27,778/- Rs.69,444/- + Rs.27,778/- = Rs.97,222/-
3.	1/3 deduction towards personal and living expenses of the deceased	Rs.32,407/- Rs.97,222/- - Rs.32,407/- = Rs.64,815/-
4.	Multiplier of 18 to be applied	Rs.64,815/- x 18 Rs.11,66,670/-
5.	Towards loss of estate (Rs.15,000/- + Rs.3,000/- with increase of 10% in every three year	Rs.18,000/-
6.	Towards loss of funeral expenses (Rs.15,000/- + Rs.3,000/- with increase of 10% in every three year	Rs.18,000/-
7.	Towards loss of consortium to both claimants @ Rs. 40,000/- (Rs.40,000/- + Rs.8,000/- = Rs.48,000/- each with increase of 10% in every three years	Rs.96,000/-
	Total Compensation	Rs.12,98,670/-

10. Since the Tribunal has already awarded Rs.10,32,000/-, after deducting the same from Rs.12,98,670/-, the claimants/appellants are entitled for an additional compensation of **Rs.2,66,670/-** which shall carry interest as awarded by the Tribunal. However, rest of the conditions of the impugned award



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shall remain intact

11. In the result, the appeal is allowed in part with modification in the impugned award to the above extent.

sd/-

(Amitendra Kishore Prasad)
Judge

Vishakha