



2025:CGHC:38470



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NAFR**HIGH COURT OF CHHATTISGARH AT BILASPUR****MAC No. 260 of 2021****1 - Smt. Pratiksha W/o Late Mulchand, Aged About 22 Years****2 - Bhushan Kumar S/o Late Mulchand Aged About 3 Years****3 - Kumari Sakshi D/o Late Mulchand Aged About 1 Years****4 - Narmada Bai W/o Shri Jagdish Aged About 43 Years**

No.2 and 3 are minors, through natural guardian mother Smt. Pratiksha.

All Are R/o- Ravi Das Nagar Jarhabhatha, Thana - Civil Line District -
Bilaspur Chhattisgarh.**--- Appellants****versus****1 - Shatruhan Lal S/o Bhanjan Das, Aged About 27 Years R/o - Village
Sonpuri Devri Thana Mungeli, Tahsil And District - Mungeli Chhattisgarh.
(Recent Driver Vehicle Motor Cycle No. C.G. 10 / E.K. / 649). (Driver),****2 - Nandan Das Banjare S/o Mota Das Banjare, Aged About 70 Years R/o -
Village Sonpuri Devri, Thana - Mungeli, Tahsil And District - Mungeli
Chhattisgarh. (Registered Owner Vehicle Motor Cycle No. C.G. 10 / E.K. /
649). (Owner)****3 - The Oriental Insurance Company Limited, Through Divisional Manager,
Divisional Office, In Front Of Rajeev Plaza Bilaspur Tahsil And District -
Bilaspur Chhattisgarh. (Insurer Of The Vehicle Motor Cycle No. C.G. 10 /
E.K. / 649) (Insurer).****....Respondents**



For Appellants	: Ms. Shanili Jangade, Advocate on behalf of Mr. A.L. Singroul, Advocate
For Respondent No.3	: Ms. Shrishti Updhyay, Advocate on behalf of Mr. Ghanshyam Patel, Advocate

Hon'ble Shri Justice Parth Prateem Sahu

Order On Board

04/08/2025

1. Claimant/appellants have filed this appeal under Section 173 of the Motor Vehicles Act, 1988 (for short 'the Act of 1988') seeking enhancement of compensation awarded by the learned 6th Additional Motor Accident Claims Tribunal, Bilaspur, District – Bilaspur (for short 'the Claims Tribunal') vide award dated 28.01.2021 passed in Claim Case No.77/2013 thereby allowing application in part and awarding Rs.9,83,800/- as compensation in a death case.
2. Fact that the accident was caused by the offending vehicle, which was insured by Non-Applicant No. 3, resulting in the death of deceased, Moolchand, due to the rash and negligent driving of Non-Applicant No. 1, is not in dispute. Liability to satisfy award imposed on Non-Applicant No. 3 is also undisputed. Therefore, this Court is not entering into the factual aspects of the case and is only considering the submission made by learned counsel for appellants seeking enhancement of amount of compensation.
3. Learned counsel for the appellants would submit that deceased on the date of accident was working as electrician and earning Rs.6,000/- per month, however, the learned Claims Tribunal assessed the



income of the deceased as Rs.3,500/- per month only which is on lower side. Learned Claims Tribunal erred in not considering the pleadings made in the application and evidence of the witnesses examined on behalf of the claimants. She further submits that even if the claimants failed to prove income of deceased as pleaded in the claim application, learned Claims Tribunal ought to have consider his income taking note of the minimum wages fixed by the competent authority under Minimum Wages Act. She submits that compensation under other conventional head has not been properly awarded.

4. Learned counsel for respondent No.3 would oppose the submission of learned counsel for the appellants and submits that the compensation awarded by the learned Claims Tribunal in the facts of the case is just and proper, which does not call for any interference.
5. I have heard learned counsel for parties and also perused the documents placed on record.
6. So far as the grounds raised by learned counsel for appellants with regard to assessment of income of the deceased is concerned, though there is pleading in the claim application that deceased was working as electrician and earning Rs.6,000/- per month. However, no clinching evidence was brought on record to prove income of the deceased. In absence of specific proof and evidence with respect to income of the deceased, learned Claims Tribunal justified in assessing his income on notional basis, however, the learned Claims Tribunal erred in assessing Rs.3,500/- as his income overlooking the date of accident on 10.04.2012.



7. Where claimants failed to prove occupation and income of deceased, the learned Claims Tribunal has to determine income notionally keeping in mind factors like rise in price index, place of residence, date of accident and the wages prevailing at the place where deceased was resident of. The learned Claims Tribunal could have also taken note of minimum wages fixed by the competent authority under the Minimum Wages Act for the purpose of calculating the amount of compensation.
8. In the case at hand, there is no suggesting piece of evidence to prove the wages paid to unskilled labourer on the date of accident at the place of which deceased was resident of. Hence, I find it appropriate to assess the income of the deceased treating him to be unskilled labourer taking help of the minimum wages fixed by the Competent Authority under the Minimum Wages Act, 1948 for that period. The minimum wages of unskilled labourers fixed by the authority for the period from 01.10.2011 to 31.03.2012 was Rs.4,277/- per month. Hence, income of the deceased is determined as Rs.4,277/- per month. It is ordered accordingly.
9. Perusal of the award reveals that the learned Claims Tribunal added 40% towards future prospects to the assessed income of the deceased, deducted 1/4 for personal living expenses, and applied multiplier of 18. In the facts and circumstances of the case, these calculations do not warrant any interference.
10. Further perusal of the award would show that learned Claims Tribunal has awarded Rs.15,000/- each towards loss of estate and for funeral expenses and Rs.40,000/- to each of the claimants towards loss of



consortium, which is also in consonance with the decision of Hon'ble Supreme Court in case of **National Insurance Company Limited. Vs. Pranay Sethi & Ors**, reported in **(2017) 16 SCC 680** and in case of **Magma General Insurance Company Limited vs. Nanu Ram alias Chuhru Ram & Ors.** reported in **(2018) 18 SCC 130**.

11. Hon'ble Supreme Court in case of **Pranay Sethi (supra)** has further observed that there shall be increase of 10% on the amount of compensation awarded under other conventional heads after every three years and therefore, the amount of compensation under the head of loss of consortium, funeral expenses and loss of estate is to be increased by 10%. It is ordered accordingly.
12. On the basis of above, compensation awarded needs recomputation, which is as under :-

SN	Head	Amount (in Rs.).
1.	Annual income	: 4,277 x 12 = 51,324.00
2.	Addition of 40% towards future prospects	: 51,324.00 + 20,529.00 = 71,853.00
3.	1/4 deduction towards personal expenses	: 71,853.00 – 17,963.00 = 53,890.00
4.	Loss of dependency after application of multiplier of 18	: 53,890 x 18 = 9,70,020.00
5.	For loss of spousal, parental and filial consortium to the appellants No.1 to 4 of Rs.44,000/- each (Rs.44,000 x 4)	: 1,76,000.00
6.	For funeral expenses	: 16,500.00
7.	For loss of estate	: 16,500.00
	Grand Total	: 11,79,020.00

13. Accordingly, the appeal is allowed in part. Now the appellants shall be entitled for total compensation of Rs.11,79,020.00. Any amount paid to



the appellant as compensation as per impugned award shall be adjusted. Enhanced amount of compensation shall carry interest @ 8% per annum from the date of filing of application till its realization. Rest of the conditions mentioned in the impugned award shall remain intact.

14. In the result, the appeal is allowed in part and the award impugned stands modified to the extent indicated above.

Sd/-
(Parth Prateem Sahu)
Judge

Balram