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NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MAC No. 614 of 2018

Branch Manager, The Oriental Insurance Compay Ltd. Branch Office Manendragarh Road, Ambedkar Chowk Ambikapur P.S. And Tahsil Ambikapur, District Surguja, Chhattisgarh, Through Divisional Manager, The Oriental Insurance Company Ltd. Division Office Rama Trade Center Opposite Rajiv Plaza Bilaspur, Chhattisgarh

... Appellant

versus

1 - Nisha Ekka D/o Imil Ekka Aged About 24 Years Cast Uranw R/o Village Gandhinagar Lakdapara P.O. Ambikapur, P.S. And Tahsil Ambikapur, District Surguja, Chhattisgarh

2 - Asha Kiran Ekka D/o Imil Ekka Aged About 22 Years Cast Uranw R/o Village Gandhinagar Lakdapara P.O. Ambikapur, P.S. And Tahsil Ambikapur, District Surguja, Chhattisgarh

3 - Dipshikha Ekka D/o Imil Ekka Aged About 20 Years Cast Uranw R/o Village Gandhinagar Lakdapara P.O. Ambikapur, P.S. And Tahsil Ambikapur, District Surguja, Chhattisgarh

4 - Shubham Ekka S/o Imil Ekka Aged About 18 Years Cast Uranw R/o Village Gandhinagar Lakdapara P.O. Ambikapur, P.S. And Tahsil Ambikapur, District Surguja, Chhattisgarh

5 - Imil Ekka S/o Late Marshal Ekka Aged About 50 Years Cast Uranw R/o Village Gandhinagar Lakdapara P.O. Ambikapur, P.S. And Tahsil Ambikapur, District Surguja, Chhattisgarh

6 - Neman Charges Tirky S/o Iliyas Tirky Aged About 47 Years R/o Keradih P.S. Kunkuri District Jashpur, Chhattisgarh, Through Vehicle

Owner Vijay Bus Service, Vijay Kumar Garg, S/o Teluram Agrawal Age 47 Years, R/o Pathalgaon, District Jashpur, Chhattisgarh

7 - Vijay Kumar Garg S/o Teluram Agarwal Aged About 47 Years R/o Pathalgaon, District Jashpur, Chhattisgarh

... Respondents

(Cause-title taken from Case Information System)

For Appellant	:	Mr. Ghanshyam Patel, Advocate
For Respondents No.1 to 5	:	Mr. Sushil Dubey, Advocate
For Respondent No.7	:	Mr. Manoj Kumar Sinha, Advocate

Hon'ble Shri Amitendra Kishore Prasad, Judge

Judgment on Board

02.04.2026

1. The present appeal calls in question the legality and correctness of the award dated 08.01.2018 passed by the learned Motor Accident Claims Tribunal, Ambikapur, District Surguja (C.G.) (hereinafter referred to as the "Claims Tribunal") in Claim Case No. 89/2017, whereby the learned Claims Tribunal has partly allowed the claim application preferred by the claimants and awarded a compensation of Rs. 7,45,000/- to be paid by non-applicants therein along with interest @ 7% per annum from the date of filing of the claim application till its realization.

2. Heard on I.A. No. 02 of 2025, which is an application for condonation of delay of 2610 days in filing the cross-objection.

3. Learned counsel for the claimants/respondents No.1 to 5 submits that the delay, though substantial, is neither intentional nor deliberate, but has occurred due to bona fide circumstances. The claimants, belonging to a Scheduled Tribe community and residing in a remote rural area of District Ambikapur, Surguja, were not well-versed with the legal procedure and had initially relied upon local counsel. It is further submitted that upon receipt of notice from this Court in the appeal preferred by the Insurance Company, the claimants approached their counsel, and only thereafter came to know that the compensation awarded by the learned Tribunal was not computed in accordance with settled principles of law. Consequently, after obtaining proper legal advice, the present cross-objection has been filed.

4. Learned counsel submits that the delay deserves to be condoned in the interest of justice, particularly when the claimants have suffered the loss of their wife and mother in a motor accident and are seeking just compensation. Reliance is placed upon the judgment of the Hon'ble Supreme Court in ***Mahadev Govind Gharge and Others v. Special Land Acquisition Officer, (2011) 6 SCC 321***, to contend that the right to file cross-objection is not completely extinguished upon expiry of limitation and the Court is empowered to permit the same if sufficient cause is shown. It is thus prayed that this Court may kindly condone the delay in filing the cross-objection and take the same on record in the interest of justice.

5. Having considered the grounds mentioned in the application for condonation of delay, and in view of the law laid down by the

Hon'ble Supreme Court in ***Mahadev Govind Gharge*** (supra), this Court is satisfied that the delay has been sufficiently explained and is neither deliberate nor intentional. The claimants, being from a remote tribal background, have demonstrated bona fide reasons which prevented them from approaching this Court within the prescribed period. Accordingly, the delay of 2610 days in filing the cross-objection is hereby condoned.

6. Brief facts of the case are that the claimants, being the son, daughter and husband of deceased Smt. Prabha Ekka, preferred a claim petition seeking compensation of Rs.42,60,000/- on account of her untimely death in a motor accident that occurred on 12.03.2014. On the said date, the deceased was travelling as a passenger in a bus bearing registration No.CG-14-A-4111 (for short, 'offending vehicle') from Raigarh to Kunkuri. At about 07:30 a.m., on Samaruma Main Road within the jurisdiction of Police Station Punjipathra, District Raigarh, the said bus, driven by non-applicant No.1 in a rash and negligent manner, met with an accident, as a result of which Smt. Prabha Ekka sustained fatal injuries and died on the spot. In connection with the accident, an FIR was registered against non-applicant No.1 and, after due investigation, a charge-sheet was filed before the competent Court.

7. At the time of the accident, the deceased was aged about 40 years and was earning approximately Rs.15,000/- per month by running a poultry business, thereby contributing to the maintenance of the claimants. It was pleaded that due to her untimely demise, the claimants have suffered irreparable loss of dependency. Accordingly, compensation to the tune of Rs.42,60,000/- was claimed from the respondents, i.e., the driver, owner and insurer of the offending vehicle, jointly and severally.

8. Non-applicant No.1/driver, while admitting certain undisputed facts, denied the allegations of rash and negligent driving and contended that the accident did not occur due to his fault, as he was driving the vehicle cautiously on the correct side of the road. It was further contended that he possessed a valid and effective driving licence at the time of the accident and, therefore, he is not liable to pay compensation.

9. Non-applicant No.2/owner did not file any reply and the matter proceeded ex parte against him.

10. The insurance company/non-applicant No.3, in its written statement, denied the claim and contended that the petition was based on false and fabricated grounds. It was further pleaded that the accident occurred due to mechanical failure allegedly caused by overloading of the bus and not due to any negligence on the part of the driver. It was also contended that the deceased was not travelling as a valid passenger and that the claimants were not dependent upon the income of the deceased.

11. On appreciation of the pleadings and the oral as well as documentary evidence brought on record by the respective parties, the learned Claims Tribunal awarded a sum of Rs.7,45,000/- as compensation along with interest at the rate of 7% per annum from the date of filing the claim application till its realization and fastened the liability to satisfy the amount of compensation upon the non-applicants therein.

12. Learned counsel for the appellant/Insurance Company submits that the present case is a clear case of absence of a valid and effective driving licence on the part of the driver of the offending vehicle at the time of the accident. It is contended that the driving licence of the driver had already expired on 11.10.2013 and remained unrenewed till the date of the accident, i.e., 12.03.2014. The licence was admittedly renewed only on the subsequent day, i.e., 13.03.2014. Thus, on the date and time of the accident, the driver was not holding a valid driving licence.

13. Drawing attention to document Ex. D-2, learned counsel submits that it is clearly established that the driver did not possess a valid and effective driving licence at the relevant point of time. Despite this, the learned Claims Tribunal, without proper appreciation of the material on record, erroneously presumed that an application for renewal had been filed prior to the accident and, on that basis, fastened liability upon the Insurance Company, which is per se illegal and unsustainable in law.

14. It is further submitted that the Insurance Company had specifically pleaded in its written statement that the owner of the vehicle had entrusted the vehicle to non-applicant No.1 despite having full knowledge that he was not holding a valid driving licence. This assertion has remained uncontroverted, as the owner neither filed any written statement nor entered the witness box to rebut the same or to establish that he had exercised due diligence in verifying the driving licence before employing the driver.

15. Learned counsel further contends that although the driver contested the proceedings, he failed to step into the witness box and did not produce any material to show that he had applied for renewal of his driving licence prior to the accident. In absence of such evidence, the Tribunal gravely erred in presuming that such an application had been filed and in wrongly shifting the burden upon the Insurance Company to prove otherwise.

16. It is also argued that the learned Tribunal has committed a serious illegality in fastening liability upon the Insurance Company despite recording a finding that the driving licence had expired on the date of the accident. The mere fact that the licence was renewed on the following day could not cure the defect or validate the licence retrospectively.

17. Placing reliance upon Section 15 of the Motor Vehicles Act, learned counsel submits that where an application for renewal is made beyond thirty days from the date of expiry, the renewal becomes effective only from the date of renewal and not from the date of expiry. In the present case, the licence had expired about five months prior to the accident and was renewed only on 13.03.2014. Therefore, on the date of the accident, the driver was not holding a valid and effective driving licence, constituting a clear breach of policy conditions, and consequently, the Insurance Company cannot be held liable to indemnify the insured.

18. On the other hand, learned counsel for the owner submits that an application for renewal of the driving licence had already been filed by the driver; however, the licence came to be formally renewed on 13.03.2014, i.e., one day after the date of the accident. It is thus contended that once the application for renewal had been submitted, the validity of the driving licence ought to be considered from the date of such application, and not from the date of its actual renewal. On this premise, it is prayed that the matter be remanded to the learned Claims Tribunal for proper consideration of this aspect.

19. Learned counsel further submits that the findings recorded by the learned Claims Tribunal are in accordance with law and based on proper appreciation of the evidence available on record, and therefore, the same do not warrant any interference by this Court. It is further submitted that the award passed by the Tribunal is just and reasonable in the facts of the case, and learned Claims Tribunal rightly fastened the liability upon the Insurance Company, as such, the appeal being devoid of merit deserves to be dismissed.

20. Learned counsel for the claimants/respondents No.1 to 5 submits that the learned Claims Tribunal has awarded a meagre and inadequate amount of compensation, which is not just, fair or reasonable in the facts and circumstances of the case, and the same warrants suitable enhancement by this Court. It is contended that the Tribunal has erred in properly appreciating the evidence available on record with regard to the income of the deceased, who was engaged in running a poultry business and contributing substantially to the family income. The assessment of income made by the Tribunal is on the lower side and does not reflect the actual earning capacity of the deceased. It is further submitted that the Tribunal has failed to grant appropriate addition towards future prospects in its proper perspective, keeping in view the settled principles of law. Moreover, the amounts awarded under the conventional heads, such as loss of consortium, loss of estate and funeral expenses, are also on the lower side and not in consonance with the law laid down by the Hon'ble Supreme Court.

21. Learned counsel further contends that the Tribunal has not adequately considered the dependency of the claimants upon the deceased and the financial as well as emotional loss suffered by them due to her untimely demise. The overall compensation awarded, therefore, falls short of the standard of "just compensation" as envisaged under the Motor Vehicles Act. Hence, it is prayed that the compensation awarded by the learned Claims

Tribunal be suitably enhanced by this Court and the cross-objection filed by the claimants be allowed.

22. I have heard learned counsel for the parties and perused the record of the claim case carefully.

23. This Court shall first deal with the cross-objection filed by the claimants.

24. Before the learned Claims Tribunal, the claimants, who are five in number, pleaded that the deceased Smt. Prabha Ekka was engaged in running a poultry farm and was earning Rs.15,000/- per month. However, no cogent and reliable documentary evidence was produced to substantiate the said income. Though certain receipts (Ex.P-6 to Ex.P-30) were filed, the same did not clearly establish that the amounts deposited therein were in connection with the alleged poultry business or reflected the actual income of the deceased. Even in the cross-examination, claimant Nisha Ekka (AW-1) admitted that no document relating to the poultry farm or income of Rs.15,000/- per month had been produced. In such circumstances, the learned Claims Tribunal, keeping in view the nature of work and prevailing circumstances, has assessed the notional income of the deceased at Rs.4,000/- per month, which this Court finds to be just and reasonable and does not call for interference.

25. The legal position with regard to assessment of compensation stands well settled by the principles laid down by the Hon'ble

Supreme Court in ***Sarla Verma v. Delhi Transportation Corporation*, *(2009) 6 SCC 121*** and ***National Insurance Company Ltd. v. Pranay Sethi & Ors., AIR 2017 SC 5157***. In the present case, the age of the deceased has been rightly determined as 40 years on the basis of the post-mortem report (Ex.P-4), which has not been disputed by the parties. Considering that the deceased was self-employed, an addition of 25% towards future prospects has rightly been made, thereby enhancing the monthly income to Rs.5,000/- and the annual income to Rs.60,000/-.

26. As there were five dependents of the deceased, i.e., her husband and children, the learned Claims Tribunal has rightly deducted 1/4th towards personal and living expenses of the deceased. After such deduction, the annual contribution to the family comes to Rs.45,000/-. Applying the multiplier of 15, as applicable to the age group of 36–40 years, the loss of dependency has rightly been computed at Rs.6,75,000/-. Accordingly, this Court deems it appropriate to award a sum of Rs.48,000/- each towards loss of consortium to all the five claimants, totaling Rs.2,40,000/-.

27. Further, in view of the principles laid down in ***Pranay Sethi*** (supra), the claimants are also entitled to compensation under the conventional heads of loss of estate and funeral expenses. Accordingly, a sum of Rs.18,000/- is awarded towards loss of estate and a further sum of Rs.18,000/- towards funeral expenses.

The enhancement in these conventional heads is also in consonance with the law laid down by the Hon'ble Supreme Court in ***United India Insurance Co. Ltd. v. Satinder Kaur @ Satwinder Kaur, (2020) 11 SCC 1***, wherein periodical enhancement has been recognized. The said legal position stands reaffirmed in the recent judgment of the Hon'ble Supreme Court in ***Preetha Krishnan and others v. United India Insurance Co. Ltd. and others, 2025 LiveLaw (SC) 1073***, wherein it has been held that compensation under conventional heads such as loss of consortium, loss of estate, and funeral expenses is liable to be enhanced by 10% periodically.

28. Thus, while affirming the findings of the learned Claims Tribunal with regard to income, age, future prospects and multiplier, this Court enhances the compensation under the conventional heads in accordance with the settled legal principles, as discussed hereinabove.

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

Sl. No.	**Head**	**Calculation**	**Awarded amount**
1.	Income of deceased @ Rs.4,000/- per month	Rs.48,000/- per annum	
2.	25% of (1) above to be added as future prospects	48,000 + 12,000 = Rs.60,000/-	
3.	1/4th of (2) deducted as personal	60,000 / 4 = Rs.15,000/-	

	expenses of the deceased	= Rs.45,000/-	
4.	Compensation after multiplier of 15 applied	45,000 x 15	Rs.6,75,000/-
5.	Towards loss of estate	15,000 + 3,000 with increase of 10% in every three years	Rs.18,000/-
6.	Towards loss of consortium to all the five claimants @ Rs. 40,000/-	40,000 + 8,000 = 48,000/- with increase of 10% in every three years	Rs.2,40,000/-
7.	Funeral Expenses	15,000 + 3,000 with increase of 10% in every three years	Rs.18,000/-
		Total Compensation Awarded	**Rs.9,51,000/-**

30. In the said circumstance, the total compensation comes to **Rs.9,51,000/-**. After deducting Rs.7,45,000/- as awarded by the Claims Tribunal, the enhancement would be **Rs.2,06,000/-**.

31. In the result, the cross-objection filed by the claimants is allowed in part. The impugned award is modified to the extent indicated herein-above.

32. Now, this Court shall deal with the appeal filed by the Insurance Company.

33. The learned Claims Tribunal, while dealing with Issue No. 2, has held that the Insurance Company (non-applicant No.3) has failed to establish that the driver of the offending vehicle (non-applicant No.1) was not holding a valid and effective driving licence at the time of the accident, so as to absolve the insurer of its liability.

34. The Tribunal, upon appreciation of the evidence adduced by both the claimants and the non-applicants, recorded that although the driving licence of non-applicant No.1 had not been renewed for the period from 11.10.2013 to 12.03.2014, it stood renewed immediately thereafter on 13.03.2014. It was further observed that prior to the said period as well as subsequent thereto, the driver was holding a valid driving licence. In this backdrop, the Tribunal held that the non-renewal of the licence for the interregnum period of about five months could at best be treated as a technical lapse.

35. The Tribunal also took into consideration the testimony of the witnesses produced by the Insurance Company and found that their statements did not conclusively prove that the driver was not holding a valid and effective licence on the date of the accident. It was further observed that the Insurance Company had failed to establish that the owner of the offending vehicle had knowingly permitted the driver to operate the vehicle in violation of the terms and conditions of the insurance policy.

36. Relying upon the principles laid down in various judicial precedents, the Tribunal held that mere absence or non-renewal of a driving licence at the relevant time would not by itself absolve the Insurance Company of its liability unless it is further proved that there was a willful breach of the policy conditions on the part of the insured.

37. The Tribunal also dealt with the contention regarding the driver holding a licence for LMV while driving a transport vehicle and, placing reliance on settled legal position, held that the same would not disentitle the claimants from receiving compensation. Accordingly, the Tribunal concluded that the Insurance Company (non-applicant No.3) failed to prove breach of policy conditions and, therefore, held it liable, jointly and severally along with the other non-applicants, to satisfy the award in favour of the claimants.

38. From the perusal of Ex. D/2, it is quite vivid and apparent that the driving licence of the driver of the offending vehicle remained unrenewed for the period from 11.10.2013 till 12.03.2014 and that it came to be renewed only on 13.03.2014, i.e., immediately after the date of the accident. Thus, prima facie, on the date and time of the accident, the driver was not holding a valid and effective driving licence. In such circumstances, this Court is of the considered view that the learned Claims Tribunal has committed an error of law in fastening the liability upon the Insurance Company despite the clear breach of policy conditions. It is further noteworthy that the owner of the offending vehicle chose to remain ex parte before the learned Claims Tribunal and did not file any written statement nor stepped into the witness box to demonstrate that he had exercised due diligence in verifying the validity of the driving licence of the driver before entrusting the vehicle to him. This conduct of the owner assumes significance, particularly in light of the specific plea taken by the Insurance Company regarding breach of policy conditions.

39. A careful perusal of the written statement filed by the driver also reveals that there is no specific pleading to the effect that he had applied for renewal of his driving licence prior to the date of the accident. In absence of any such pleading or evidence, the finding recorded by the Tribunal that the licence might have been under process of renewal is based on mere presumption and is not borne out from the record.

40. In view of the aforesaid facts and circumstances, this Court finds that the conclusion arrived at by the learned Claims Tribunal on the issue of liability is not in accordance with law and the same deserves to be, and is hereby, set aside.

41. Consequently, the liability to satisfy the award is shifted from the Insurance Company to the owner and driver of the offending vehicle, who shall be jointly and severally liable to pay the compensation amount.

42. At this stage, learned counsel for the claimants submits that the claimants are the unfortunate legal heirs of the deceased and should not be made to suffer on account of inter se disputes between the insurer and the insured. It is thus prayed that, in the interest of justice, this Court may direct the Insurance Company to first satisfy the award and thereafter recover the same from the owner and driver of the offending vehicle in accordance with law.

43. Considering the aforesaid submission and keeping in view the settled legal position that the claimants should not be deprived of timely compensation, this Court deems it appropriate to direct the Insurance Company to pay the awarded compensation to the claimants in the first instance and thereafter recover the same from the owner and driver of the offending vehicle by initiating appropriate proceedings in accordance with law.

44. For the foregoing reasons and discussions:

(i) the cross-objection preferred by the claimants/respondents No.1 to 5 is partly allowed. The impugned award stands modified to the extent indicated hereinabove. The claimants shall be entitled to an additional sum of Rs.2,06,000/- over and above the amount already awarded by the Claims Tribunal. The enhanced amount shall carry interest @ 7% per annum from the date of filing of the claim petition till its realization. The remaining conditions imposed by the learned Claims Tribunal shall remain unaltered; and

(ii) the appeal filed by the Insurance Company is allowed. Though the Insurance Company stands exonerated from its ultimate liability, having regard to the benevolent object of the Motor Vehicles Act, it is directed to first satisfy the award and

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thereafter recover the same from the driver and owner of the offending vehicle by initiating appropriate execution proceedings in accordance with law.

45. Accordingly, the Insurance Company is directed to deposit the entire amount of compensation, as determined and modified by this Court, in favour of the claimants within a period of 60 days from the date of production of a certified copy of this judgment.

46. Let the entire record of the concerned Motor Accident Claims Tribunal be transmitted forthwith, along with a copy of this judgment, for necessary compliance.

Sd/-

(Amitendra Kishore Prasad)
Judge

Yogesh