2026:CGHC:3139

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MAC No. 751 of 2018

1 - Bajaj Allianz General Insurance Company Ltd. Through Branch Manager, Shiv Mohan Bhawan, Vidhan Sabha Road-3 Pandri, Raipur, Chhattisgarh 492001 (Insurer), District : Raipur, Chhattisgarh

...Appellant

versus

1 - Rakesh Pratap Singh S/o Late Lokesh Kumar @ Lallu Singh Aged About 30 Years Caste Kshatriya, R/o Mishra Gali Bhaiyathan Road Surajpur, Tehsil Surajpur, District Sarguja, Chhattisgarh, District : Surguja (Ambikapur), Chhattisgarh

2 - Ku. Nita Singh D/o Late Lokesh Kumar @ Lallu Singh Aged About 17 Years Minor Through Her Mother Smt. Usha Singh, Caste Kshatriya, R/o Mishra Gali Bhaiyathan Road Surajpur, Tehsil Surajpur, District Sarguja, Chhattisgarh (Claimants), District : Surguja (Ambikapur), Chhattisgarh

3 - Ganesh Prasad Gupta S/o Aklu Prasad Gupta Mahatma Gandhi Ward Bauripara, Ambikapur, District Sarguja, Chhattisgarh (Owner), District : Surguja (Ambikapur), Chhattisgarh

... Respondents

(Cause-title taken from the Case Information System)

For Appellant :- Mr. Ghanshyam Patel, Advocate

For Respondents :- Mr. Shakti Raj Sinha, Advocate

SB- Hon'ble Shri Justice Amitendra Kishore Prasad

Order On Board

19.01.2026

1. This appeal has been preferred by the appellant-Insurance Company against the award dated 19.09.2017 passed by the learned Third Additional Motor Accident Claims Tribunal, Surajpur, District Surajpur (C.G.) in CNR No. CGSJ010000842011/ C.T. No.249/2011, whereby a total compensation of ₹24,07,500/- was awarded to the claimants from the date of application till realization, fastening the liability upon the non-applicants No. 1-Insurance Company & 2-Ganesh Prasad Gupta (Owner).

2. As per averments made in the claim petition, on 01.01.2011, the deceased was proceeding to Raigarh in his petrol tanker bearing registration No. CG 15 A 9117 after loading petrol from Indian Oil Petrol Depot, and while the deceased himself was driving the said tanker and reached near Martunga Road, Sitapur, a truck bearing registration No. CG 15 A 6324 came from the opposite direction and, being driven in a rash and negligent manner, dashed against the tanker, as a result of which the deceased sustained fatal injuries and died on the spot. It is further averred that the deceased was the owner of the tanker and was earning Rs. 1,21,000/- per month, on the basis of which the claimants have sought compensation of Rs. 50,00,000/- under various heads. The offending vehicle owned by non-applicant No. 2 and insured with non-applicant No. 1 (Insurance Company) at the time of the accident.

3. The learned Tribunal assessed the income of the deceased at Rs. 50,000/- per month, i.e., Rs. 6,00,000/- per annum. After deduction of

income tax, the net annual income was taken as Rs. 5,40,000/-. Upon applying a deduction of one-third towards personal expenses of the deceased, the annual contribution to the family was calculated at Rs. 3,60,000/-. By applying the multiplier of 13, the total loss of dependency was computed at Rs. 46,80,000/-. In addition thereto, a sum of Rs. 50,000/- each was awarded towards parental consortium, Rs. 25,000/- towards funeral expenses, and Rs. 10,000/- towards loss of estate, thereby making the total compensation Rs. 48,15,000/-. However, 50% of the said amount was deducted on account of contributory negligence, and consequently the total compensation payable was determined as Rs. 24,07,500/-. Aggrieved by the said award, the present appeal has been filed by the appellant–Insurance Company.

4. Learned counsel for the appellant submits that only a photocopy of the driving licence was produced before the Tribunal, which was not at all legible. It is further submitted that when an application was moved before the Tribunal seeking permission to file the original copy of the driving licence, the same was dismissed on wholly erroneous grounds. It is also submitted that the said driving licence was never duly proved in accordance with law. An application was moved by the appellant for summoning the concerned Regional Transport Officer (RTO) as a witness for proving the driving licence; however, the said application was also dismissed by the Tribunal in an illegal and arbitrary manner. As such, the driving licence was not proved before the Tribunal. In the absence of a duly proved and valid driving licence, the Insurance Company cannot be held liable to pay compensation, as no liability can

be fastened upon the insurer. Learned counsel further submits that the Tribunal has committed a serious error of law in assessing the monthly income of the deceased at Rs. 50,000/- without there being any cogent or reliable evidence on record. There was no proof of income such as income tax returns, salary slips, or any other documentary evidence to substantiate such assessment. Despite this, the income of the deceased has been arbitrarily assessed at Rs. 50,000/- per month, which is wholly erroneous and unsustainable in law. Accordingly, the present appeal has been preferred by the Insurance Company challenging both the finding regarding liability as well as the quantum of compensation awarded by the learned Tribunal.

5. On the other hand, learned counsel for the respondents submits that the Tribunal has rightly fastened the liability upon the Insurance Company. It is submitted that a photocopy of the driving licence was duly filed before the Tribunal. If the Insurance Company disputes the genuineness of the said driving licence, the burden lies upon the Insurance Company to summon and produce the original copy of the same before the Tribunal in order to establish that the driving licence was either fake or did not cover the class of vehicle involved in the accident. In the absence of any such evidence having been produced by the Insurance Company, no fault can be found with the finding recorded by the Tribunal. Learned counsel further submits that so far as the question of income is concerned, the Tribunal has considered all relevant aspects in a detailed and reasoned manner. The income of the deceased has been assessed at Rs. 50,000/- per month on the basis of

material available on record, which is just, proper and reasonable and does not call for any interference by this Hon'ble Court.

6. I have heard learned counsel for the parties and perused the record.

7. From a perusal of the record and upon consideration of the documents as well as the contentions raised by the Insurance Company, it appears that after dismissal of the application seeking production of the original copy of the driving licence, the Insurance Company did not avail of any remedy available under law to challenge the said order passed by the Tribunal. In the absence of any such challenge, the order rejecting the application for production of the original driving licence has attained finality and cannot now be questioned at this stage.

8. So far as the question relating to assessment of the income of the deceased at Rs. 50,000/- per month is concerned, upon perusal of the record it is evident that there was no documentary evidence such as income tax returns, audited accounts, or any other cogent proof of income placed before the Tribunal. The Tribunal has assessed the income of the deceased at Rs. 50,000/- per month merely on the assumption that he was the owner-cum-driver of a tanker engaged in transportation work and on the basis of certain documents suggesting that he was receiving rent from the concerned oil corporation.

9. However, there is no material on record to establish that such income was regular in nature or that income tax was being paid on the

said amount as required under law. In the absence of any reliable and admissible documentary evidence, it appears that the Tribunal has assessed the income of the deceased on conjectures and assumptions, which cannot be sustained.

10. In view of the above, this Court is of the considered opinion that the monthly income of the deceased is required to be reassessed. Having regard to the nature of work carried out by the deceased, namely ownership of a fuel tanker and engagement in transportation of petroleum products, it would be just and proper to assess the income of the deceased at Rs. 40,000/- per month.

11. Accordingly, while reconsidering this aspect, the compensation awarded by the Tribunal is liable to be recalculated on the basis of the revised income assessed in the following manner:-

S.No.	Heads	Calculation
01	Towards loss of dependency	Rs. 41,60,000/-
02	Towards consortium along with with increase of 10% in every three years (40,000X3+10% +10%).	Rs. 1,44,000/-
03	Towards loss of estate along with increase of 10% in every three years.	Rs. 18,000/-
04	Towards Funeral Expenses along with increase of 10% in every three years.	Rs. 18,000/-
	Total	**Rs. 43,40,000/-**

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12. For the reasons mentioned herein-above, the appeal is **allowed in part.** The amount of compensation of **Rs.48,15,000/-** awarded by the Claims Tribunal is reduced to **Rs.43,40,000/-**. The claimants are entitled to get **Rs.43,40,000/-** in place of **Rs.48,15,000/-.** The award is modified to the above extent.

13. No order as to costs.

sd/-
(Amitendra Kishore Prasad)
Judge

Vishakha