



2026:CGHC:10590

NAFR**HIGH COURT OF CHHATTISGARH AT BILASPUR****MAC No. 720 of 2023**

1 - Sitaram S/o Aghnu Khess Aged About 51 Years R/o Village Kamari, Police Station And Tahsil Shankargarh, District- Balrampur-Ramanujganj, Chhattisgarh.....(Claimants), District : Balrampur, Chhattisgarh

2 - Laxmaniya Khess W/o Sita Ram Aged About 48 Years R/o Village Kamari, Police Station And Tahsil Shankargarh, District- Balrampur-Ramanujganj, Chhattisgarh.

--- Petitioner(s)**versus**

1 - Arun Kumar S/o Ramgyan Yadav Aged About 22 Years R/o Village Kadwa Police Station Thurki, District- Garhwa, Jaharkhand.....
(Driver)

2 - Shashikant Yadav S/o Lallu Prasad Yadav Aged About 55 Years R/o Village Ghaghra, Post Jhalriya Police Station Salrampur, District- Balrampur- Ramanujganj, Chhattisgarh.....(Vehicle Owner)

3 - Branch Manager United Insurance Company Limited Branch Office Braham Road, Near Kumkum Hotel , Ambikapur Police Station Ambikapur, District- Surguja, Chhattisgarh.....(Insurance Company)

--- Respondent(s)**MAC No. 730 of 2023**

1 - Mohar Sai Alias Mehsai Bakhla S/o Sukha Bakhla Aged About 60 Years R/o Village Kamari, P.S. And Tahsil Shankargarh, District - Balrampur-Ramanujganj Chhattisgarh. (Claimants)

2 - Thumri Bakhla W/o Mohar Sai Bakhla Aged About 55 Years
Occupation Agriculture, R/o Village Kamari, P.S. And Tahsil
Shankargarh, District - Balrampur-Ramanujganj Chhattisgarh.

---Petitioner(s)

Versus

1 - Arun Kumar S/o Ramgyan Yadav Aged About 22 Years R/o Village
Kadwa P.S. Thurki District - Garhwa Jharkhand (Driver)

2 - Shashikant Yadav S/o Lallu Prasad Yadav Aged About 55 Years R/o
Village Ghaghra, Post Jhalriya P.S. Balrampur District - Balrampur-
Ramanujganj Chhattisgarh. (Vehicle Owner)

3 - Branch Manager, United Insurance Company Limited, Branch Office
Braham Road, Near Kumkum Hotel, Ambikapur P.S. Ambikapur District
- Surguja Chhattisgarh. (Insurance Company)

--- Respondent(s)

For Petitioner(s)	: Mr. Dev Ashish Biswas, Advocate
For Respondents No.1 & 2	: Ms. Sonali Kesharwani, Advocate
For Respondent No.3	: Mr. Kapil Maini, Advocate

Hon'ble Shri Justice Rakesh Mohan Pandey
Judgment On Board

28.02.2026

1) The claimants have preferred these two appeals against the judgment and award dated 10.12.2022 passed by the Motor Accident Claims Tribunal, Surguja, District Ambikapur, in Claim Case Nos. 73/2022 and 72/2022, whereby the Tribunal has awarded compensation of Rs.5,59,200/- on account of the death of Karan Khess and Rs.5,59,200/- on account of the death of Surendra Bakhla, along with interest @ 7% per annum.

- 2) Facts of the case, in brief, are that on 27.02.2022, the deceased, namely, Karan Khess and Surendra Bakhla, were travelling on a motorcycle driven by Sagar Singh, which collided with a stationary truck bearing Registration No. CG30 B 0394. As a result of the said accident, Karan Khess and Surendra Bakhla sustained grievous injuries and subsequently succumbed to the death.
- 3) **In MAC No.720 of 2023**:- The claimants, who are parents of deceased Karan Khess filed claim case under Section 166 of the Motor Vehicles Act wherein they pleaded that the age of deceased was 21 years and earning Rs.12,000/- per month. They claimed a sum of Rs.62,41,000/- before the Tribunal.
- 4) **In MAC No.730 of 2023** :- The claimants, who are father, wife and a child of deceased filed a claim case under Section 166 of the Motor Vehicles Act wherein they pleaded that the age of deceased was 21 years and earning Rs.12,000/- per month. They claimed a sum of Rs.62,41,000/- before the Tribunal.
- 5) The insurance company filed reply and denied averments made in the claim petitions.
- 6) The Tribunal framed issues, parties led evidence and thereafter awards were passed.
- 7) Mr. Biswas, learned counsel for the claimants, submits that the deceased persons, namely, Karan Khess and Surendra Bakhla, were aged about 21 years at the time of the accident and were

labourers earning Rs.12,000/- per month. He submits that the learned Tribunal assessed the notional income of the deceased persons at Rs.7,000/- per month, which is not in consonance with the minimum wage matrix applicable in the State of Chhattisgarh at the relevant time. He further contends that the learned Tribunal failed to grant proper compensation under the conventional heads. He would further submit that the Tribunal has committed a grave error of law in holding 50% negligence on the part of the rider of the motorcycle. According to him, there is no cogent evidence to establish negligence on the part of the rider of the motorcycle. He would contend that the truck was stationary on the middle side of the road without indicators or tail lights. He, therefore, prays that the findings with regard to contributory negligence recorded by the Tribunal are not based on legal foundation and deserve to be set aside and the compensation be enhanced accordingly.

- 8) Mr. Maini, learned counsel appearing for the insurance company opposes the submissions advanced by Mr. Biswas. Learned counsel contends that there is no documentary evidence to establish that the deceased persons were earning Rs.12,000/- per month each, therefore, the Tribunal rightly assessed the income of the deceased persons at Rs.7,000/- per month. He further submits that the truck was parked on the left side of the road and there was negligence on the part of the rider of the motorcycle. He would submit that three persons were travelling

on the motorcycle in contravention of the Motor Vehicles Rules, therefore, the Tribunal has rightly decided the issue of contributory negligence against the claimants. He further contends that the Tribunal has awarded just and proper compensation and, therefore, both the appeals deserve to be dismissed.

9) I have heard learned counsel for the parties and perused the record with utmost circumspection.

10) With regard to contributory negligence, the Tribunal held that the truck was stationary; however, its driver failed to use indicators. It is further held that the rider of the motorcycle hit the stationary truck from the rear, and thus there was negligence on the part of the rider of the motorcycle. Accordingly, the Tribunal assessed negligence in the ratio of 50:50 between the rider of the motorcycle and the driver of the truck and deducted the compensation proportionately.

11) In the First Information Report, it is stated that the truck was parked by its driver on the main road without use of indicators or tail lights, and the motorcycle rammed into the stationary truck. The Crime Detail Form (Ex. P/1) shows that the truck was parked in the middle of the road. Sagar Singh, who was the driver of the motorcycle, stated in his affidavit that the truck was parked on the left side of the road and that his motorcycle hit against it from the rear side. In his cross-examination, this witness admitted that it was a pitch-dark night at the time of the accident.

12) It is quite vivid from the evidence available on record that truck was parked on road without use of any indicators or tail lights and the rider of the motorcycle remmed into the stationary truck.

13) The Hon'ble Supreme Court in the matter of **Sushma Vs. Nitin Ganapati Rangole & Ors.**¹ has held that where truck was parked in the middle of the road without any parking lights being switched on and without placing any markers or indicators around the stationary vehicle so as to warn incoming vehicular traffic, it can be concluded that such vehicle was parked in clear violation of the Motor Vehicles Rules. It was further held that on highways or busy roads, the permissible speed limits are fairly high, in such circumstances, it would be imprudent to hold that the driver of a vehicle travelling on such a road, in pitch-dark night conditions, would be able to notice a stationary vehicle lying in the middle of the road within a reasonable distance so as to apply the brakes and avoid a collision. The relevant paragraph 40 is produced hereinbelow

“40. On a holistic analysis of the material available on record, it is established beyond the pale of doubt that the offending truck was parked in the middle of the road without any parking lights being switched on and without any markers or indicators being placed around the stationary vehicle so as to warn the incoming vehicular traffic. This omission by the person in control of the said truck was in clear violation of law. The accident took place on a highway where the permissible speed limits are fairly high. In such a situation, it would be

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imprudent to hold that the driver of a vehicle, travelling through the highway in the dead of the night in pitch dark conditions, would be able to make out a stationary vehicle lying in the middle of the road within a reasonable distance so as to apply the brakes and avoid the collision. The situation would be compounded by the headlights of the vehicles coming from the opposite direction and make the viewing of the stationary vehicle even more difficult. Thus, the conclusion drawn by the Courts below that the driver of the car could have averted the accident by applying the brakes and hence, he was equally negligent and contributed to the accident on the application of principle of last opportunity is ex-facie perverse and cannot be sustained. Hence, it is a fit case warranting exercise of this Court's powers under Article 136 of the Constitution of India to interfere with the concurrent finding of facts.”

- 14)** The Insurance Company, as well as the owner and driver of the truck, failed to examine any witness to establish negligence on the part of the rider of the motorcycle. As alleged three persons were travelling on a motorcycle, may constitute violation of Motor Vehicles Rules, however, on the basis of that fact alone, it cannot be presumed that there was negligence on the part of the rider of the motorcycle or the occupants of the said vehicle. Therefore, the findings recorded by the Tribunal in this regard are not sustainable in the eyes of law and are hereby set aside.
- 15)** Accordingly, the findings recorded by the Tribunal in both the appeals with regard to contributory negligence are set aside and the claimants are held entitled to get entire amount of compensation without any deduction.

16) So far as enhancement of compensation, admittedly, the age of the deceased persons were 21 years and they were labourer by profession; however, they failed to prove income Rs.12,000/- per month, therefore, the learned Tribunal ought to have treated the deceased as unskilled labourers. The minimum wage payable to an unskilled labourer in the month of February, 2022 was Rs.9,280/- per month and the learned Tribunal ought to have considered the said figure while assessing the income of the deceased persons, namely, Karan Khess and Surendra Bakhla. Further, the learned Tribunal failed to award compensation towards loss of consortium to the claimants.

17) Thus, in light of the aforesaid discussion, this Court is re-computing the compensation of **MAC No.720 of 2023** as below:

Sr. No.	Heads	Compensation awarded by Tribunal	Compensation awarded by this Court
1.	Annual Income	Rs.84,000/- (@Rs.7,000 pm)	Rs. 1,11,360/- (@Rs. 9,280 pm)
2.	Future Prospect	Rs. 33,600/- (@40%)	Rs. 44,544/- (@40%)
3.	Annual income after Deduction Towards Personal Expenses	Rs. 58,800/- (@1/2)	Rs. 77,952/- (@1/2)
4.	Annual Income after Applying Multiplier	Rs. 10,58,400/- (@18)	Rs. 14,03,136/- (@18)
5.	Loss of Consortium (10% enhancement)	Nil	Rs. 88,000/- (Two Claimants)
6.	Funeral Expenses	Rs.15,000/-	Rs.15,000/-
7.	Loss of Estate	Rs.15,000/-	Rs.15,000/-
Total		Rs.10,58,400/- (After 50% contributory	Rs.15,21,136/-

	Negligence = Rs.5,59,200/-	
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18) Accordingly, the amount of compensation of **Rs. 5,59,200/-** awarded by the Claims Tribunal is enhanced to **Rs. 15,21,136/-**. Hence, the appellants are entitled for an additional amount of **Rs. 9,61,936/-**. The Insurance Company is directed to make payment of additional compensation assessed herein-above within period of 60 days. Rest of the terms of the award shall remain intact.

MAC No.730 of 2023

19) In light of the aforesaid discussion, this Court is re-computing the compensation of **MAC No.730 of 2023** as below:

Sr. No.	Heads	Compensation awarded by Tribunal	Compensation awarded by this Court
1.	Annual Income	Rs.84,000/- (@Rs.7,000 pm)	Rs. 1,11,360/- (@Rs. 9,280 pm)
2.	Future Prospect	Rs. 33,600/- (@40%)	Rs. 44,544/- (@40%)
3.	Annual income after Deduction Towards Personal Expenses	Rs. 58,800/- (@1/2)	Rs. 77,952/- (@1/2)
4.	Annual Income after Applying Multiplier	Rs. 10,58,400/- (@18)	Rs. 14,03,136/- (@18)
5.	Loss of Consortium (10% enhancement)	Nil	Rs. 88,000/- (Two Claimants)
6.	Funeral Expenses	Rs.15,000/-	Rs.15,000/-
7.	Loss of Estate	Rs.15,000/-	Rs.15,000/-
Total		Rs.10,58,400/- (After 50% contributory Negligence: Rs.5,59,200/-)	Rs.15,21,136/-

20) Accordingly, the amount of compensation of **Rs. 5,59,200/-** awarded by the Claims Tribunal is enhanced to **Rs. 15,21,136/-**.

Hence, the appellants are entitled for an additional amount of **Rs. 9,61,936/-**. The Insurance Company is directed to make payment of additional compensation assessed herein-above within period of 60 days. Rest of the terms of the award shall remain intact.

21) Accordingly, both the appeals are **allowed in part** and the impugned awards are modified to the extent as indicated herein-above.

Sd/-
(Rakesh Mohan Pandey)
JUDGE

Saxena