



2025:CGHC:38545
NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MAC No. 847 of 2018

United India Insurance Company Limited Through Its Divisional
Manager, Divisional Office Iind Floor, Gurukripa Towers, Vyapar Vihar
Road, Bilaspur, District Bilaspur, Chhattisgarh (Non-Applicant No.3)

--- Appellant

Versus

- 1 - Urmila Sahu Wd/o Vanshrup Sahu Aged About 44 Years Occupation
House Wife, Caste Sahu, R/o Village Chandan Nagar, P.O., P.S. And
Tahsil Prem Nagar, District Surajpur, Chhattisgarh (Applicant No.1)
- 2 - Vikas Kumar Sahu S/o Vanshrup Sahu Aged About 20 Years Caste
Sahu, R/o Village Chandan Nagar, P.O., P.S. And Tahsil Prem Nagar,
District Surajpur, Chhattisgarh (Applicant No.2)
- 3 - Vijay Kumar Sahu S/o Vanshrup Sahu Aged About 18 Years Caste
Sahu, R/o Village Chandan Nagar, P.O., P.S. And Tahsil Prem Nagar,
District Surajpur, Chhattisgarh (Applicant No.3)
- 4 - Sohan Ram S/o Ghurhu Sahu Aged About 72 Years Occupation
Agriculture, Caste Sahu, R/o Village Chandan Nagar, P.O., P.S. And
Tahsil Prem Nagar, District Surajpur, Chhattisgarh (Applicant No.4)
- 5 - Sundari Bai W/o Sohan Ram Sahu Aged About 68 Years House
Wife, Caste Sahu, R/o Village Chandan Nagar, P.O., P.S. And Tahsil
Prem Nagar, District Surajpur, Chhattisgarh (Applicant No.5)
- 6 - Kumar Ram S/o Mahesh Ram Aged About 56 Years Occupation
Driver, R/o Lormi, P.S. Sirgitti, District Bilaspur, Chhattisgarh (Non-
Applicant No.1)

7 - Dharmendra Yadav S/o Mewalal Yadav Aged About 45 Years
Occupation Business (Owner Of Vehicle Swraj Majda) R/o Shailendra
Apartment Phase No.6, Jarhabhatha, Bilaspur, P.S. Civil Line Bilaspur,
District Bilaspur, Chhattisgarh (Non-Applicant No.2)

--- Respondents

MAC No. 1438 of 2018

1 - Urmila Sahu W/o Late Shri Vanshroop Sahu Aged About 44 Years
R/o Village Chandannagar Police Station Prem Nager, Thasil
Premnager, District- Surajpur Chhattisgarh.

2 - Vikas Kumar Sahu S/o Late Vanshroop Sahu Aged About 20 Years
R/o Village Chandannagar Police Station Prem Nager, Thasil
Premnager, District- Surajpur Chhattisgarh.

3 - Vijay Kumar Sahu S/o Late Vanshroop Sahu Aged About 18 Years
R/o Village Chandannagar Police Station Prem Nager, Thasil
Premnager, District- Surajpur Chhattisgarh.

4 - Sohan Ram S/o Late Ghurhu Sahu Aged About 72 Years R/o Village
Chandannagar Police Station Prem Nager, Thasil Premnager, District-
Surajpur Chhattisgarh.

5 - Sundri Bai W/o Late Sohan Ram Sahu Aged About 68 Years R/o
Village Chandannagar Police Station Prem Nager, Thasil Premnager,
District- Surajpur Chhattisgarh.(Claimants)

--- Appellants

Versus

1 - Kumar Ram S/o Maheshram Aged About 56 Years R/o Village Lormi
P.S. Sirgitti, District- Bilaspur, Chhattisgarh (Driver)

2 - Dharmendra Yadav S/o Mewalal Yadav Aged About 45 Years R/o
Shailendra Apartment, Phase No. 6, Jarhabhata, District- Bilaspur,
Chhattisgarh. (Owner)

3 - United India Insurance Company Limited Through Divisional Manager, Second Floor Gurukripa, Tower Vyapar Vihar, Bilaspur, District- Bilaspur Chhattisgarh.(Insurer)

... Respondents

(Cause-title taken from Case Information System)

For Insurance Company :	Mr. Dashrath Gupta, Advocate
For Claimants :	Ms. Seema Singh, Advocate
For Driver & Owner :	None

Hon'ble Shri Amitendra Kishore Prasad, Judge

Judgment on Board

04.08.2025

1. Since both the appeals arise out of same accident, they have been clubbed together, heard together and decided by this common judgment.
2. Challenge in these appeals is to the award dated 09.02.2018 passed by the learned 3rd Additional Motor Accident Claims Tribunal, Surajpur, District Surajpur (C.G.) (hereinafter referred to as 'Claims Tribunal') in Claim Case No.158/2016 whereby learned Claims Tribunal allowed claim application in part of the claimants.
3. MAC No.847/2018 has been filed by the Insurance Company challenging the quantum of compensation as also breach of policy conditions, whereas MAC No.1438/2018 has been filed by the claimants for enhancement of amount of compensation.

4. Brief facts of the case, in a nutshell, are that, the deceased, Vanshroop Sahu, met with an accident on 14.06.2016 along with his friend Mohan Ram. He was returning from Bilaspur to his home in Chandan Nagar in his pickup vehicle bearing registration No.UP-64/T/5360. When he reached near Katghora Gopal Petrol Pump, the driver of a Swaraj Mazda vehicle bearing registration No.CG-10/K/7011 (for short, 'offending vehicle'), Kumar Ram, who was driving the said vehicle at high speed and in a negligent manner, collided head-on with the pickup vehicle, causing a severe accident. As a result, the deceased sustained internal injuries to his chest, head, and other parts of the body. Two ribs on the left side of his chest were fractured and pressed inward, due to which he died on the spot.
5. The claimants have filed claim petition pleading therein that the deceased was a voluntarily retired Subedar from the Indian Army and was engaged in agriculture and shop-keeping. He had a monthly income of ₹34,000/- and claimed ₹84,10,000/- as compensation.
6. Non-applicant No.1/driver of the offending vehicle, while denying all the averments made in the claim petition, stated in his reply that the deceased was driving his pickup vehicle rashly and negligently under the influence of excessive alcohol and had collided head-on with the Swaraj Mazda vehicle, which was being driven slowly and on its correct side. It was pleaded that the deceased was solely responsible for the accident and there was

no fault on the part of the Swaraj Mazda driver. The claim had been made in a fabricated and exaggerated manner.

7. Non-applicant No.2/owner of offending vehicle also denied all the allegations made in the claim petition and similarly contended that the deceased had been driving under the influence of alcohol and in a reckless manner when he collided with the Swaraj Mazda vehicle, which was moving slowly on its correct side. It was further pleaded that the driver of the Swaraj Mazda vehicle was not at fault in the alleged accident. The claim had been presented in an exaggerated form. The offending vehicle was duly insured with non-applicant No.3 at the time of the accident, and the driver had a valid and effective driving licence. Therefore, the entire liability for payment of compensation, if any, upon the non-applicant No.3.
8. Non-applicant No.3/Insurance Company, in its reply, partly admitted the facts stated in the claim petition. It was contended that although the deceased was a voluntarily retired Subedar, he did not earn a monthly income of ₹34,000/- from agriculture and shop-keeping. The accident had occurred due to the negligent driving of the pickup vehicle by the deceased. It was further pleaded that the deceased did not possess a valid driving licence to operate a pickup vehicle, as such, he also contributed to the accident and 50% of the compensation amount should have been deducted on account of contributory negligence. It was also pleaded that there was breach of policy conditions, as such, the

Insurance Company was not liable to pay any amount of compensation.

9. On appreciation of pleadings, oral and documentary evidence brought on record by the respective parties, Claims Tribunal held that the deceased was aged about 47 years on the date of accident and earning Rs.3,01,500/- per annum. While adding 40% towards future prospects, deducting 1/5th towards personal and living expenses and after applying the multiplier of 13, awarded an amount of Rs.43,89,840/- towards loss of dependency. Learned Claims Tribunal has further awarded Rs.70,000/- towards other conventional heads, as such awarded total compensation of Rs.44,59,840/- to the claimants with interest @ 9% per annum from the date of filing of the claim application till its realization and fastened the liability to pay the amount of compensation upon the driver, owner and Insurance Company of the offending vehicle.
10. Learned counsel for the Insurance Company submits that the award passed by the learned Claims Tribunal is bad in law and is liable to be set aside or modified to the extent permissible under the law. He further submits that there was a head-on collision between the pickup vehicle and the Swaraj Mazda. The deceased, Vanshroop Sahu, was driving the pickup vehicle. From the facts and circumstances of the case, it is evident that the deceased was equally responsible for the said accident. However, the learned Tribunal failed to consider this vital aspect and did not

attribute any contributory negligence to the deceased. It is respectfully submitted that the deceased was at least 50% negligent in causing the accident. It is submitted that the deceased was a retired Army personnel and after his demise, his dependents are entitled to receive family pension. The learned Tribunal erred in considering the entire pension amount as income of the deceased for the purpose of calculating compensation. It is submitted that family pension received by the dependents cannot be treated as part of the deceased's income, and the learned Tribunal committed an error in assessing the income on the higher side by including the same. The paddy receipt amounting to ₹45,300/-, which was produced before the learned Tribunal, was not duly proved by cogent evidence. Despite the lack of proof, the learned Tribunal illegally considered the same as income of the deceased, which is contrary to law and deserves to be excluded. It has been contended that the learned Claims Tribunal deducted only 1/5th towards personal and living expenses of the deceased, whereas in the present case, there are five dependents. In accordance with settled legal principles, the deduction ought to have been 1/4th instead of 1/5th. The assessment made on this count is therefore erroneous. The learned Tribunal further erred in awarding 40% of the pension amount towards future prospects for a deceased aged about 47 years, without proper basis. Moreover, while calculating the compensation amount, the Tribunal failed to deduct personal

living expenses from the component of future prospects, resulting in an inflated and legally unsustainable award. The offending vehicle was being plied without a valid fitness certificate, which amounts to a clear violation of the terms and conditions of the insurance policy. As such, the Insurance Company cannot be held liable for payment of compensation in violation of policy conditions.

11. On the other hand, learned counsel appearing for the claimants submits that the impugned award passed by the learned Claims Tribunal is on the lower side and therefore warrants interference by this Court. It is respectfully submitted that the compensation awarded is not commensurate with the evidence on record and the settled principles of law laid down by the Hon'ble Supreme Court. It has been argued that the Claims Tribunal has also failed to award just and reasonable compensation under the conventional heads. It is submitted that under the head of loss of consortium, the claimants are entitled to ₹1,00,000/- each, but the Tribunal has awarded a lesser sum without any justification, which is contrary to the guidelines laid down in ***Pranay Sethi*** (supra). It is further submitted that the Hon'ble Supreme Court, in ***United India Insurance Co. Ltd. v. Satinder Kaur @ Satwinder Kaur, (2020) 11 SCC 1***, has held that an amount under conventional heads should be increased by 10% every three years to keep pace with inflation. The learned Claims Tribunal, however, overlooked this well-settled principle and awarded amounts under

conventional heads without applying the mandated escalation. As such, the appeal filed by the claimants be allowed and the amount of compensation be enhanced suitably. Reliance has been placed upon the judgment rendered by Hon'ble Supreme Court in the matter of ***Shivaleela and others v. The Divisional Manager, United India Insurance Co. Ltd. and others*** passed in ***Civil Appeal arising out of Special Leave Petition (Civil) Nos.12193-12194 of 2024*** decided on **17.03.2025**, to buttress her submissions.

12. I have heard learned counsel for the parties and perused the record of the claim case carefully.
13. Learned Claims Tribunal has categorically dealt with the issue regarding contributory negligence in paragraph-13 and held that although Insurance Company pleaded contributory negligence, it failed to produce any oral or documentary evidence to prove that the deceased Vanshroop Sahu was negligent. The Insurance Company examined one witness, namely Mayank Shukla, but his statement pertained only to policy violations and made no reference to the deceased's negligence. The final report and FIR also made no mention of contributory negligence. As the collision was head-on and no charge was filed against the deceased or his vehicle, mere allegations without proof were held insufficient. Hence, contributory negligence was not established.

- 14.** Further in paragraphs-14 to 18, learned Claims Tribunal dealt with breach of policy conditions and held that although offending vehicle involved in the accident was insured with the Insurance Company and the driver held a valid licence, the vehicle did not have a valid fitness certificate on the date of the accident, as it had expired on 24.04.2016 and was not renewed until after the accident. The Insurance Company argued that there was a breach of policy conditions, producing supporting documents including the RTO report and investigator's findings. However, the Claims Tribunal held that the absence of a valid fitness certificate was merely a technical lapse without any causal connection to the accident and, therefore, did not absolve the Insurance Company of liability to pay compensation.
- 15.** The learned Claims Tribunal, in paragraphs 19 to 25 of the impugned award, held that the deceased was a retired Army personnel drawing a pension of ₹21,350/- per month, as proved by Pension Certificate Ex.A-7. In addition to his pension, agricultural income was also considered, based on paddy receipts and land records. Though a document regarding income tax was filed, it was not proved through a competent witness or certified copy.
- 16.** Learned Claims Tribunal has reckoned the total annual income of deceased as ₹3,01,500/- (₹2,56,200/- from pension + ₹45,300/- from purchase of paddy), which is correct in the facts and

circumstances of the case and this Court is hereby affirm the said annual income of the deceased.

17. The Claims Tribunal, applying the principles laid down in ***Sarla Verma (Smt.) and others v. Delhi Transport Corporation and another, (2009) 6 SCC 121***, deducted 1/5th of the income towards personal and living expenses, which is not correct because in view of the case *Sarla Verma (Smt.)*, where the dependents are 4-6 in number, the deduction should be 1/4th. As such, this Court is of the view that learned Claims Tribunal has erred in deducting 1/5th amount towards personal and living expenses of the deceased instead of 1/4th. Accordingly, after deducting 1/4th towards personal and living expenses of deceased, the annual dependency of the claimants comes to ₹2,26,125/-. Based on the unrebutted postmortem report, the age of the deceased at the time of the accident was taken as 47 years, and accordingly, a multiplier of 13 was applied, arriving at a compensation of ₹29,39,625/-.
18. Relying further in the matter of ***National Insurance Company Limited v. Pranay Sethi and Others, (2017) 16 SCC 680***, 40% of the established income was added towards future prospects, amounting to ₹11,75,850/-, bringing the total compensation to ₹41,15,475/- towards loss of dependency.
19. Further, the scope of 'consortium' has been subsequently explained by the Apex Court in ***Magma General Insurance***

Company Limited v. Nanu Ram Alias Chuhru Ram & Others, (2018) 18 SCC 130. 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.2,00,000/- 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 in view of the judgment rendered by the Hon'ble Supreme Court in **Satinder Kaur @ Satwinder Kaur** (supra).

20. 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.3,01,500/- per annum	Rs.3,01,500/- per annum	
2.	40% of (1) above to be added as future prospects	3,01,500 + 1,20,600 = Rs.4,22,100/-	
3.	1/4th of (2) deducted as personal expenses of the deceased	4,22,100 / 4 = Rs.1,05,525 = Rs.3,16,575/-	

4.	Compensation after multiplier of 13 applied	3,16,575 x 13	Rs.41,15,475/-
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.43,91,475/-

- 21.** In the said circumstance, the total compensation comes to **Rs.43,91,475/-**. As such, the amount awarded by the Claims Tribunal is reduced by Rs.68,365/- and the claimants shall get total compensation of Rs.43,91,475/- (44,59,840 – 43,91,475) along with interest @ 9% per annum on the total amount of compensation with effect from the date of filing the claim application till its realization. The amount already deposited under the impugned award shall be adjustable.
- 22.** In the result, the appeal filed by the Insurance Company being MAC No.847/2018 as well as the appeal filed by the claimants being MAC No.1438/2018 are **allowed in part**. The impugned award is modified to the extent indicated above and rest thereof shall remain intact.
- 23.** Since it is an admitted fact that on the date of accident, the

offending vehicle was insured with the Insurance Company, the Insurance Company is directed to pay the amount of compensation to the claimants as modified by this Court within a period of 60 days from the date of production of certified copy of this judgment.

- 24.** Record of the concerned Motor Accident Claims Tribunal be sent.

Sd/-

(Amitendra Kishore Prasad)
Judge

Yogesh