



2026:CGHC:10539



2026:CGHC:10539

NAFR**HIGH COURT OF CHHATTISGARH AT BILASPUR****MAC No. 826 of 2023**

Shriram General Insurance Company Limited Through - Its Legal Manager, 4th Floor Maruti Heights, Beside Sky Auto Maruti Dealer, Mahobabazar, Raipur, District - Raipur, Pin -492010 Chhattisgarh.

... Appellant**versus**

1 - Smt. Pashabati Lavatre Wd/o Late Motilal Lavatre Aged About 54 Years R/o Ward No. 12, Gurur, P.S. Gurur District- Balod Chhattisgarh. (Claimants)

2 - Janhvi Lavatre D/o Chandrashekhar Lavatre Aged About 4 Years Being Minor Represented Through Natural Guardian Grand-Mother/respondent No. 1 Smt. Pashabati Lavatre, R/o Ward No. 12, Gurur, P.S. Gurur District- Balod Chhattisgarh.

3 - Divyansh Lavatre S/o Chandrashekhar Lavatre Aged About 9 Moths, Being Minor Represented Through Natural Guardian Grand-Mother/respondent No. 1 Smt. Pashabati Lavatre, R/o Ward No. 12, Gurur, P.S. Gurur District- Balod Chhattisgarh.

4 - Chandrashekhar Lavatre S/o Late Motilal Lavatre Aged About 34 Years R/o Ward No. 12, Gurur, P.S. Gurur, District Balod



Chhattisgarh. (Owner-Cum-Driver Of Motorcycle Bearing No. Cg-
24 N 9244) ... Respondent(s)

(cause title taken from Case Information System)

For Appellant : Shri Sourabh Sharma, Advocate.

For Respondents No.1 to: Shri Mukul Chaturvedi along with Ms.
3 Mugdha Sharma on behalf of Shri
Anand Dadariya, Advocates.

Hon'ble Shri Justice Rakesh Mohan Pandey

Judgment on Board

28.02.2026

1. The Insurance Company has preferred this Appeal under Section 173 of the Motor Vehicles Act, 1988 assailing the award dated 06.12.2022 passed by the 1st Additional Motor Accidents Claims Tribunal, Balod, District Balod (for short "the Tribunal") in Claim Case No.119/2021, whereby the Tribunal has awarded a total compensation of Rs.15,319,753/- along with interest @ 9% per annum on account of the death of Ishwari Lavatrei in a motor accident.

2. Brief facts of the case are that deceased Ishwari Lavatre was a pillion rider on a motorcycle bearing registration No. CG-24-N-9244. On 19.09.2020, while she was travelling towards Orissa on the said motorcycle driven by her husband Chandrashekhar, along with her son Divyansh, near village Basanvahi, while descending from a bridge, the driver of the vehicle lost control and the motorcycle turned turtle due to rash and negligent driving. As a



result, the deceased sustained grievous injuries and, during the course of treatment, succumbed to the same on 23.09.2020.

3. A claim Petition was filed under Section 166 of the Motor Vehicles Act by the mother-in-law and two minor children of the deceased, pleading that at the time of the accident, the deceased was aged about 28 years and was earning Rs.8,000/- per month. The Insurance Company filed its reply contending that the driver of the motorcycle did not possess a valid and effective driving licence and that five persons were travelling on the motorcycle in contravention of the Motor Vehicles Rules. The Tribunal framed issues; parties led evidence and thereafter, the impugned award was passed.

4. Shri Sharma, learned counsel for the Appellant submits that the deceased, being the wife of Respondent No.4/registered owner of the vehicle, cannot be termed as a third party so as to maintain a claim Petition under Section 166 of the Motor Vehicles Act. He further contends that the recipient and the owner cannot be the same person and that the Tribunal has awarded excessive compensation. He prays for setting aside the impugned award.

5. Per contra, learned Counsel for the claimants opposed the Appeal and submitted that except the insured and the insurer, all other persons fall within the definition of "third party." It is further submitted that the Tribunal has failed to award just and adequate



compensation and, therefore, a cross-objection has been filed seeking enhancement. It is argued that the Tribunal assessed the income of the deceased at Rs.7,000/- per month, which is on the lower side, and in absence of cogent proof of income, the minimum wages applicable to an unskilled labourer in the State of Chhattisgarh at the relevant time, i.e., Rs.9,120/- per month, should have been considered by the learned Tribunal. It is also contended that inadequate amounts have been awarded under conventional heads.

6. Heard learned Counsel for the parties and perused the entire material available on record carefully.

7. Recently, the High Court of Madhya Pradesh at Indore, in M.A No.293/2023 in the matter of Ramdayal & Ors vs. has held that where single issue was involved, a view has been taken that except the insured and insurer, all are third party. The relevant paras are 10, 11, 12 & 16, which are as under:-

“10. The Madras High Court in case of *Nallasivam (supra)*, while considering a similar issue observed that except the insured, all other would become third party. It will not make any difference that there was a relation of husband and wife between the deceased the owner and thus, directed the insurance company to pay compensation.

11. Similarly, the Himachal Pradesh High Court in case of *Kulwant Kaur (supra)* has held that death of the owner in the same accident does not prevent the maintainability of the claim petition by the legal representatives. The purpose of compensation under the Act is to assist those who have lost person) upon whom they were dependent and



depriving the claimant on the ground that the deceased owner was not a party would defeat this purpose. Thus, even in absence of owner, the Court directed the insurance company to pay compensation. Similarly, in the case of Thakur Uma Rani (*supra*), the Telangana High Court considered the liability of the insurance company and held that the insurance company is liable to pay compensation for the death or injury to a pillion rider on a two-wheeler irrespective of the fact of relation between the owner and the pillion rider. Similar was the opinion of the Madras High Court in case of *S.Sivaram (supra)*.

12. The Andhra Pradesh High Court in case of ***R.Kamala vs. Shaik Mohd. Ghouse & Anr., (2004) ACJ 2112*** while considering the provisions of Section 155 of the MVA observed that the cause of action survives against estate of the owner or insurer. Thus, it was ultimately held that appeal would not abate for the absence of owner and the insurance company is liable to pay compensation. Thus, the contention of learned counsel for the insurance company that in absence of presence of owner as party-respondent the compensation cannot be directed to be paid as there is nobody to indemnify by the insurance company, is not sustainable.

16. In the present case, the claim has been filed for death of the mother of the claimants, who was also the wife of the owner of the insured vehicle. In the accident, both husband and wife died. As per evidence, wife died before husband. As per the settled law, except 'Insured' and 'Insurer' all are third party. The death of the owner occurred after the accident and after the death of the wife, thus on both counts the provisions of Section 155 of the Motor Vehicles Act will apply in full force and the cause of action survives against insurer."

8. In the present case also, the deceased was wife of the registered owner. The vehicle was insured with the Insurance Company. The rider of the motorcycle had valid and effective driving license and the Insurance Company failed to prove



contrary. There was relation of insured and insurer between the owner of the bike and the Insurance Company and the deceased would be treated as third party, therefore, the Tribunal has rightly considered the deceased as third party and granted compensation.

9. With regard to enhancement of compensation, the learned Tribunal has assessed the monthly income of the deceased at Rs.7,000/- whereas, the minimum wage admissible to unskilled labour was Rs.9120/- per month and that figure should have been taken for assessing the income.

10. The Tribunal has granted 40% for future prospects, deducted 1/3rd for personal and living expenses of the deceased looking to number of dependents and applied multiplier of 17 and these findings do not require interference. The Tribunal further granted medical expenses Rs.1,16,953/-, Rs.15,000/- for loss of estate, Rs.15,000/- for funeral expenses and granted compensation of Rs.40,000/- only for loss of consortium to claimant No.2 & 3/children. The mother-in-law of the deceased cannot be treated as dependent and thus, the learned Tribunal has rightly declined the compensation for loss of consortium to the mother-in-law. The children of the deceased are entitled to receive compensation for loss of consortium to the tune of Rs.40,000/- each alongwith an additional sum of Rs.10%-. Accordingly, the compensation requires reconsideration and same is being revisited as under:-



Sr. No.	Heads	Compensation awarded by the Claims Tribunal	Compensation awarded by this Court
1.	Income as per minimum wages	Rs.7,000/- per month	Rs.9,120/- per month
2.	Annual Income	Rs.7,000/- x 12= Rs.84,000/-	Rs.9,120/- x 12 = Rs.1,09,440/-
3.	Deduction of 1/3 towards personal and living expenses	Rs.84000/- (-)Rs.28,000/- =56,000/-	Rs.1,09,440/- - Rs.36,480/-= Rs.72,960/-
4.	Future prospects @ 40%	Rs.56,000/- + Rs.22,400/-= Rs.78,400/-	Rs.72,960/- + Rs.29,184/-= Rs.1,02,144/-
5.	Multiplier by 17	Rs.78,400/- x 17 = Rs.13,32,800/-	Rs.1,02,144/- x 17 = Rs.17,36,448/-
6.	Loss of estate	Rs.15,000/-	Rs.15,000/-
7.	Funeral expenses	Rs.15,000/-	Rs.15,000/-
8.	Loss of consortium to children	Rs.40,000/-	Rs.88,000/-
9.	Medical expenses	Rs.1,16,953/-	Rs.1,16,953/-
Total :		Rs.15,19,753/-	Rs.19,71,401/-



11. In view of the aforesaid analysis, the amount of compensation of Rs.15,19,753/- awarded by the Claims Tribunal is enhanced to Rs.19,71,401/-. Hence, after deducting the amount of Rs.15,19,753/-, the appellants/claimants are entitled for an additional amount of **Rs.4,51,648/-**. The Appellant/Insurance Company is directed to deposit the amount of compensation as enhanced by this Court within a period of 3 months from the date of receipt of copy of this judgment. The additional amount of compensation shall carry interest @ 9% per annum from the date of filing of claim application before the Tribunal till its realization. Rest of the conditions of the impugned award shall remain intact.

12. It is also argued by Shri Sourabh Sharma that there was delay in registration of FIR as it was lodged on 23.09.2020, which weighs the claim of the claimants doubtful. It is well settled principle of law that delay in registration of FIR cannot be a ground for case of the Claimants as held by the Supreme Court in the matter ***Ravi Vs. Badrinarayan &Ors.*** reported in **(2011) 4 SCC 693**.

13. In view of above, the Appeal preferred by the Insurance Company is **dismissed** and cross objection is **partly allowed**.

Sd/-

(Rakesh Mohan Pandey)
JUDGE