



2025:CGHC:38806

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Date: 2025.08.06
14:43:54 +0530**HIGH COURT OF CHHATTISGARH AT BILASPUR****MAC No. 651 of 2022**

1 - Bhuneshwari Bai Chandrakar W/o Late Sunil Kumar Aged About 50 Years R/o Ward No. 11 Pacharipara Kurud, Post- Kurud, Tahsil Kurud, District- Dhamtari, Chhattisgarh.

2 - Toshan Lal Chandrakar S/o Late Sunil Kumar Aged About 25 Years R/o Ward No. 11 Pacharipara Kurud, Post- Kurud, Tahsil Kurud, District- Dhamtari, Chhattisgarh.

3 - Kiran Pragania D/o Late Sunil Kumar Chandrakar Aged About 27 Years R/o Ward No. 11 Pacharipara Kurud, Post- Kurud, Tahsil Kurud, District- Dhamtari, Chhattisgarh.

4 - Reena Bharti D/o Late Sunil Kumar Chandrakar Aged About 30 Years R/o Ward No. 11 Pacharipara Kurud, Post- Kurud, Tahsil Kurud, District- Dhamtari, Chhattisgarh.

5 - Smt. Devkunwar Chandrakar W/o Late Janak Lal Chandrakar Aged About 75 Years R/o Ward No. 11 Pacharipara Kurud, Post- Kurud, Tahsil Kurud, District- Dhamtari, Chhattisgarh

... Appellant(s)**versus**

1 - Kamlesh Kumar Dhritlahare S/o Kunji Lal Aged About 30 Years Caste- Satnami, R/o Village Mandraud, Post- Mandraud, Tahsil- Kurud, District- Dhamtari, Chhattisgarh.

2 - Devendra Traders Proprietor Devendra Kumar Chandrakar S/o Late Vijay Chandrakar Caste- Kurmi Aged About 30 Years. R/o Ward No. 11 Pacharipara Kurud, Tahsil Kurud, District- Dhamtari Chhattisgarh.

3 - Branch Manager The New India Insurance Company Limited 2nd Floor R.D.A. Building Bajrang Market G.E. Road Raipur Post Raipur, Tahsil And District- Raipur, Chhattisgarh.

... Respondent(s)

For Appellants : Mr. A.L. Singroul, Advocate

For Respondent No. 3 : Mr. Anil Gulati, Advocate

SB- Hon'ble Shri Justice Sanjay K. Agrawal
Judgment On Board

05.08.2025

1. This appeal under Section 173 of the Motor Vehicles Act, 1988 (for short "Act of 1988") has been preferred by the appellants/claimants seeking enhancement of amount of compensation, challenging the impugned award dated 22/03/2022 passed by learned Additional Motor Accident Claim Tribunal, Dhamtari, District Dhamtari (C.G.) in Claim Case No. 18/2020, whereby learned Claims Tribunal has awarded a total sum of Rs. 6,57,800/- as compensation for the death of Sunil Chandrakar, aged

about 52 years, who worked as a Supervisor in a Brick Construction Company.

- 2.** Facts of the case relevant for disposal of this appeal are that in the morning of 11/10/2019, deceased Sunil Kumar Chandrakar was returning to his house at Pachripara, Kurud in his Splendor motorcycle when a Hywa bearing Registration No. CG 05 AH 7708 which was coming from behind and was being driven by respondent No. 1 in high speed and in a rash and negligent manner, dashed him due to which he suffered serious injuries on his head and face. He was taken to Rajdhani Super Specialty Hospital, Lakshminagar, Pachpedi Naka, Raipur wherein he died while undergoing treatment. After registering merg No. 125/2019, on the basis of statements of witnesses, Crime No. 547/2019 was registered against respondent No. 1 and charge-sheet was submitted in the concerned Court.
- 3.** Appellants, who are wife, two children and mother of deceased, respectively, filed an application under Section 166 read with Section 140 of the Act of 1988 seeking compensation to the tune of Rs. 12,12,800/- pleading therein that at the time of the incident, deceased was aged about 52 years and was an able-bodied person and used to work as a Supervisor in a Brick Plant and earned Rs. 8,000/- per month.

- 4.** Respondents No. 1 and 2 filed their written statement jointly and opposed the claim application by stating that on the date of the accident, respondent No. 1 had valid driving license and the offending vehicle was duly insured with respondent No. 3/Insurance Company, therefore, the liability of payment of compensation, if any, lies upon respondent No. 3/Insurance Company.
- 5.** Respondent No. 3 i.e. the Insurance Company opposed the claim application and submitted that on the date of accident, respondent No. 1 as well as deceased did not have valid driving license and respondents No. 1 and 2 further did not have valid fitness and permit of the offending vehicle, as such, it was being plied in breach of the terms and conditions of Insurance policy, therefore, the Insurance Company is not liable for payment of compensation.
- 6.** Learned Claims Tribunal, upon appreciation of pleadings and evidence placed on record by respective parties, held that deceased Sunil Kumar Chandrakar died in the accident arising out of rash and negligent driving of the aforesaid offending vehicle which was driven by respondent No. 1. Breach of conditions of insurance policy was not found proven and after calculating the amount of compensation, awarded Rs. 6,57,800/- as total

compensation with interest @ 6 % p.a. from the date of filing of claim application.

- 7.** Learned counsel for the appellants would submit that learned Claims Tribunal has erred in awarding less amount of compensation in the facts of the case. Claims Tribunal erred in assessing income of deceased as Rs. 6,000/- per month which should be Rs. 8,000/- per month and moreover, only Rs. 44,000/- has been awarded under loss of consortium whereas a total of Rs. 2,00,000/- ought to have been awarded under this head, therefore, the instant appeal be allowed and the compensation awarded by the Claims Tribunal may suitably be enhanced.
- 8.** Learned counsel for respondent No. 3 would submit that the appellants have failed to prove nature of occupation and income of deceased by producing clinching and admissible piece of evidence, hence, the Tribunal is justified in assessing income of deceased on notional basis. The amount of compensation awarded by the Claims Tribunal is just and proper which does not call for any interference.
- 9.** I have heard learned counsel for the parties, considered their rival submissions made herein-above and went through the records with utmost circumspection.

- 10.** Learned Claims Tribunal assessed the monthly income of deceased Sunil Kumar Chandrakar to be Rs. 6,000/-, however, in the opinion of this Court, the monthly income of the deceased should be Rs. 8,000/- (as per minimum wages prescribed at relevant time) and Rs. 96,000/- per annum as he worked as a Supervisor at a Brick Plant.
- 11.** Thus, in light of the aforesaid discussion and in light of the judgments of the Supreme Court rendered in the matters of National Insurance Company Ltd. V. Pranay Sethi¹, Sarla Verma & Ors. Vs. Delhi Transport Corporation & Ors² and Magma General Insurance Co. Ltd. v. Nanu Ram @ Chuhru Ram & Ors³, this Court is computing the compensation as below:-

Sr. No.	Heads	Compensation awarded by the Tribunal	Compensation awarded by this Court
1.	Income	Rs. 6,000/- x 12 = Rs. 72,000/-	Rs. 8,000 x 12 = Rs. 96,000/-
2.	Future Prospect	(+) 10% i.e. Rs. 7,200/- = Rs. 79,200/-	(+) 10% i.e. Rs. 9,600/- = Rs. 1,05,600/-
3.	Deduction	(-) 1/3 i.e. Rs. 26,400/- =	(-) 1/3 i.e. Rs. 35,200/=

1 (2017) 16 SCC 680
2 (2009) 6 SCC 121
3 (2018) 18 SCC 130

		Rs. 52,800/-	Rs. 70,400/-
4.	Multiplier	(x) 11 = Rs. 5,80,800/-	(x) 11 = Rs. 7,74,400/-
5.	Loss of Consortium	Rs. 44,000/-	Rs. 2,00,000/-
6.	Loss of Estate and Funeral Expenses	Rs. 33,000/-	Rs. 33,000/-
	Total	Rs. 6,57,800/-	Rs. 10,07,400/-

12. In view of the aforesaid analysis, the amount of compensation of Rs. 6,57,800/- awarded by the Claims Tribunal is enhanced to Rs. 10,07,400/-. Hence, after deducting the amount of Rs. 6,57,800/-, the appellants are held entitled for an additional amount of **Rs. 3,49,600/-**. The concerned respondents are 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 order. The additional amount of compensation shall carry interest @ 6% *per annum* from the date of filing of claim application before the Tribunal i.e. 30/01/2020 till its realization. Rest of the conditions of the impugned award shall remain intact.

13. Accordingly, this appeal is allowed in part and the impugned award is modified to the extent as indicated herein-above. The deposit Tribunal shall pass appropriate

order with regard to apportionment, investment and disbursement of the enhanced amount of compensation.

Sd/-
(Sanjay K. Agrawal)
Judge

Harneet