2026:CGHC:15265

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MAC No. 958 of 2018

1 - Archan Devi W/o Late Ashwani Singh Shrinetra (Thakur) Aged About 45 Years R/o Village Aourabandha Thana And Tahsil Mungeli, District Mungeli, Chhattisgarh, Hall Mukam Moh. Banshir Kha Ward Mungeli, District Mungeli, Chhattisgarh

2 - Chitrakant Singh S/o Late Ashwani Singh Shrinetra (Thakur) Aged About 24 Years R/o Village Aourabandha Thana And Tahsil Mungeli, District Mungeli, Chhattisgarh, Hall Mukam Moh. Banshir Kha Ward Mungeli, District Mungeli, Chhattisgarh

3 - Ramsumer Singh (Died And Deleted) (As Per Hon'ble Court Order Dated- 20-03-2026)

... Appellants

versus

1 - Rajesh Kumar S/o Baburam Sahu Aged About 40 Years R/o Village Post Sakari Thana Chakarbhatha, Tahsil Takhatpur, District Bilaspur, Now Present District Mungeli, Chhattisgarh

2 - Bajaj Alliance General Insurance Company Limited Branch Shiv Mohan Bhawan Vidhan Sabha Marg Pandri Raipur District Raipur, Chhattisgarh

3 - Smt. Kamal Shrivastava W/o Late Ramesh Kumar Shrivastava Aged About 67 Years R/o Deen Dayal Colony, Mangla, Bilaspur, District : Bilaspur, Chhattisgarh

4 - Chhattisgarh Government Through The Collector Mungeli Collector Office Mungeli Tahsil And District Mungeli, Chhattisgarh

... Respondents

(Cause-title taken from Case Information System)

For Appellants	:	Ms. Indrapreet Kaur Chhabra, Advocate on behalf of Mr. Navneet Singh Gumber, Advocate
For Respondent No.3	:	Mr. Khilendra Sahu, Advocate on behalf of Mr. Rajendra Patel, Advocate
For Respondent No.4/State	:	Mr. Dharmesh Shrivastava, Deputy Advocate General

Hon'ble Shri Amitendra Kishore Prasad, Judge

Judgment on Board

02.04.2026

1. The present appeal calls in question the legality and correctness of the award dated 31.03.2018 passed by the learned Additional Judge to the Court of Additional Motor Accident Claims Tribunal, Mungeli (C.G.) (hereinafter referred to as the "Claims Tribunal") in Claim Case No. 58/2011, whereby the learned Claims Tribunal has partly allowed the claim application preferred by the claimants and awarded a compensation of Rs. 7,00,000/- to be paid by non-applicants No. 3 and 4, along with interest @ 7.5% per annum from the date of filing of the claim application till its realization.

2. It is an admitted position that the name of appellant/claimant No. 1 is Archana Devi; however, due to a typographical error, her name has been mentioned as "Archan Devi" in the cause-title of the memo of appeal.

3. Since this Court has finally disposed of the appeal, it is directed that the name of appellant/claimant No. 1 shall be correctly read as Archana Devi in place of Archan Devi.

4. Brief facts of the case are that the claimants preferred a claim petition before the learned Claims Tribunal seeking compensation on account of the death of Ashwani Kumar Thakur in a motor accident that occurred on 05.02.2010. As per the case set up in the claim application, on the date of the accident, the deceased Ashwani Kumar Thakur, husband of claimant No. 1, had gone to the Primary Health Centre, Mungeli in connection with the illness of his relative Ramrakshit Singh. Upon medical examination, the said patient was referred to Apollo Hospital, Bilaspur, and accordingly, he was being shifted in an ambulance bearing registration No. CG-02/1619 owned by non-applicant No. 4. The deceased accompanied the patient along with other relatives in the said ambulance. It has been alleged that at about 11:30 PM, when the ambulance reached near Alok Dal Mill, village Barela, on the Mungeli–Bilaspur road, a truck bearing registration No. CG-10-C/0417 (for short, 'offending vehicle'), owned and parked by non-applicant No. 1, was stationed negligently in the middle of the road without any indicator or warning signal. Owing to such negligent parking, the ambulance driven by non-applicant No. 3 dashed against the rear side of the said truck, resulting in a severe accident. In the said accident, Ashwani Kumar Thakur sustained fatal injuries and died on the spot, while other occupants also suffered injuries. On the report lodged by Nalinesh Singh Parihar, a criminal case was registered at Police Station Jarhagaon against non-applicant No. 1 for the offences punishable under Sections 279, 337, 338 and 304-A of the Indian Penal Code, 1860.

5. The claimants have filed a claim petition seeking compensation of Rs.33,50,000/- along with interest and costs, pleading that the deceased was engaged in running a hotel and lodge at Mungeli and was earning approximately Rs. 20,000/- per day.

6. Non-applicant No. 1, in his reply, denied the allegations and contended that the truck was not negligently parked; rather, it had been stationed on the side of the road due to a punctured tyre, and all necessary indicator lights were duly switched on. It was further contended that the accident occurred solely due to rash and negligent driving of the ambulance by non-applicant No. 3, who, despite visible indicators, collided with the truck from behind. Hence, it was pleaded that no liability could be fastened upon non-applicant No. 1.

7. Non-applicant No. 2 (Insurance Company) also denied the claim and submitted that the insured vehicle was not involved in the accident in the manner alleged. It was further contended that the driver of the vehicle did not possess a valid and effective driving licence and that there was breach of policy conditions, including absence of valid permit and fitness certificate. Therefore, it was pleaded that in case any liability arises, the same would be upon non-applicant No. 1 alone, and the Insurance Company is not liable to indemnify.

8. Non-applicant No. 3, the driver of the ambulance, in his reply, denied negligence on his part and asserted that he was holding a valid and effective driving licence. It was contended that the accident occurred solely due to the negligent act of non-applicant No. 1, who had parked the truck in the middle of the road without any signal or indicator. Accordingly, it was pleaded that non-applicant No. 3 is not liable for payment of compensation.

9. Non-applicant No. 4 (owner/Department of the ambulance), in its reply, also denied the claim and contended that the ambulance was being operated under the Health Department, Mungeli, and necessary documents including registration certificate and driving licence of the driver were duly valid. It was further pleaded that no documentary evidence has been produced by the claimants to establish that the patient was formally referred to Bilaspur. It was alleged that the ambulance was taken without proper authorization and under pressure, and the incident occurred due to the conduct and mental state of the driver, for which the concerned staff (ANM) was responsible. Accordingly, it was prayed that the claim application be dismissed.

10. On appreciation of the pleadings and the oral as well as documentary evidence brought on record by the respective parties, the learned Claims Tribunal held that the age of the deceased Ashwani Singh was 50 years at the time of the accident and, in the absence of cogent documentary proof of income, his notional income was assessed at Rs. 150/- per day i.e. Rs.4,500/- per month. Adding 25% towards future prospects in light of the judgment in ***National Insurance Company Ltd. v. Pranay Sethi & Ors., AIR 2017 SC 5157***, the monthly income was enhanced, and after deducting one-third towards personal expenses as per ***Sarla Verma v. Delhi Transportation Corporation, (2009) 6 SCC 121***, the annual dependency was computed and multiplier of 14 was applied, thereby assessing loss of dependency at Rs.6,30,000/-. Further, amounts under conventional heads, namely loss of estate, loss of consortium and funeral expenses were granted, taking the total compensation to Rs.7,00,000/-. The Tribunal further held that the accident occurred due to the negligent driving of the ambulance by non-applicant No. 3, who was employed under non-applicant No. 4 (Health Department), and accordingly fastened liability jointly and severally upon non-applicants No. 3 and 4 to pay the awarded compensation along with interest @ 7.5% per annum from the date of application till its realization.

11. Learned counsel for the appellants/claimants submits that the impugned award passed by the learned Claims Tribunal is contrary to the facts and evidence available on record and, therefore, is liable to be set aside and suitably modified. It is contended that the Tribunal has failed to appreciate the material evidence in its proper perspective and has recorded findings which are perverse in nature. It is further submitted that the learned Claims Tribunal has committed a grave legal error in disbelieving the testimony of the witnesses adduced by the claimants in support of their pleadings, without assigning cogent reasons. The evidence on record clearly establishes the occupation and income of the deceased, however, the same has been unjustifiably discarded.

12. Learned counsel also submits that the Tribunal has erred in assessing the income of the deceased at a meagre sum of Rs. 4,500/- per month, whereas the unrebutted evidence on record demonstrates that the deceased was engaged in running a lodge and hotel business and was earning approximately Rs.20,000/- per month. It is contended that the assessment of income is arbitrary and contrary to settled principles laid down by the Hon'ble Supreme Court, and though future prospects @ 25% have been considered, the base income itself has been wrongly determined, thereby substantially reducing the compensation. It is also contended that the finding recorded by the learned Claims Tribunal in paragraph 34 while deciding Issue No. 2 is perverse and bad in law, as the same is not based on proper appreciation of evidence and settled legal principles. The Tribunal has ignored relevant material and has thus arrived at an erroneous conclusion, which deserves interference by this Court.

13. Lastly, learned counsel submits that the Tribunal has erred in awarding interest at the rate of 7.5% per annum, which is on the lower side. It is argued that the claimants are entitled to interest at the rate of 12% per annum in accordance with settled law, and therefore, the compensation awarded deserves to be suitably enhanced both on the aspect of quantum as well as the rate of interest.

14. On the other hand, learned counsel for respondent No. 3 submits that the learned Claims Tribunal has erred in law in fastening the liability upon respondent No. 3. It is contended that respondent No. 3 was merely a driver of the ambulance and was discharging his official duties under the employment of respondent No. 4 at the relevant point of time. It is further submitted that the vehicle in question was owned and controlled by respondent No. 4, i.e., the Health Department, and therefore, the liability, if any, ought to have been fastened solely upon respondent No. 4 being the employer and owner of the vehicle. The principle of vicarious liability squarely applies in the present case, and the driver cannot be held personally liable for payment of compensation.

15. Learned counsel also contends that the learned Claims Tribunal has failed to properly appreciate this settled legal position and has wrongly held respondent No. 3 jointly and severally liable along with respondent No. 4, which is unsustainable in the eyes of law. Accordingly, it is prayed that the impugned award to the extent it fastens liability upon respondent No. 3 deserves to be modified, and the entire liability be shifted upon respondent No. 4 alone.

16. Learned counsel for the State/respondent No. 4, on the other hand, submits that the learned Claims Tribunal has rightly appreciated the entire evidence available on record and has awarded a just and reasonable compensation, which calls for no interference by this Court. It is contended that the findings recorded by the Tribunal are based on proper evaluation of oral and documentary evidence and are in accordance with settled principles of law. It is further submitted that in the absence of any reliable documentary evidence regarding the income of the deceased, the Tribunal has rightly assessed the notional income and has also duly considered future prospects, deduction towards personal expenses and applied the appropriate multiplier. Thus, the compensation awarded cannot be said to be either excessive or inadequate.

17. I have heard learned counsel for the parties and perused the record of the claim case carefully.

18. Before the learned Claims Tribunal, the claimants pleaded that the deceased Ashwani Singh was engaged in running a lodge and hotel business at Mungeli and was earning Rs.20,000/- per month. However, they failed to produce any cogent documentary evidence in support of the said income. In such circumstances, the learned Claims Tribunal, keeping in view the nature of occupation and the prevailing circumstances, has assessed the income of the deceased on a notional basis at Rs.4,500/- per month, i.e., Rs.54,000/- per annum, which this Court finds to be just and proper and does not warrant interference.

19. The legal position with regard to assessment of compensation now stands well settled by the law laid down by the Hon'ble Supreme Court in ***Sarla Verma*** (supra), as affirmed by the Constitution Bench in ***Pranay Sethi*** (supra). In the present case, the age of the deceased has been rightly determined as 50 years on the basis of the postmortem report. Considering that the deceased was self-employed, an addition of 25% towards future prospects has rightly been made, enhancing the annual income to Rs.67,500/-. After deducting 1/3rd towards personal and living expenses, the annual contribution to the family comes to Rs.45,000/-. Applying the multiplier of 14, as applicable to the age group of 46–50 years, the loss of dependency has rightly been computed at Rs.6,30,000/-.

20. The scope of "consortium" has been elaborately explained by the Hon'ble Supreme Court in ***Magma General Insurance Co. Ltd. v. Nanu Ram @ Chuhru Ram, (2018) 18 SCC 130***, wherein it has been held that consortium includes spousal consortium, parental consortium and filial consortium. In the present case, the claimants, being the wife, son and father of the deceased, are entitled to consortium under the respective heads. Therefore, this Court deems it appropriate to award a sum of Rs.48,000/- each towards loss of consortium to the three claimants, totaling Rs.1,44,000/-.

21. Further, in view of the principles laid down in ***Pranay Sethi*** (supra), the claimants are also entitled to compensation under the conventional heads of loss of estate and funeral expenses. Accordingly, a sum of Rs.18,000/- is awarded towards loss of estate and a further sum of Rs.18,000/- towards funeral expenses. The enhancement in these conventional heads is also in consonance with the law laid down by the Hon'ble Supreme Court in ***United India Insurance Co. Ltd. v. Satinder Kaur @ Satwinder Kaur, (2020) 11 SCC 1***, wherein periodical enhancement has been recognized. The said legal position stands reaffirmed in the recent judgment of the Hon'ble Supreme Court in ***Preetha Krishnan and others v. United India Insurance Co. Ltd. and others, 2025 LiveLaw (SC) 1073***, wherein it has been held that compensation under conventional heads such as loss of consortium, loss of estate, and funeral expenses is liable to be enhanced by 10% periodically.

22. Thus, while affirming the findings of the learned Claims Tribunal with regard to income, age, future prospects and multiplier, this Court enhances the compensation under the conventional heads in accordance with the settled legal principles.

23. 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.54,000/- per	

	@ Rs.4,500/- per month	annum	
2.	25% of (1) above to be added as future prospects	54,000 + 13,500 = Rs.67,500/-	
3.	1/3rd of (2) deducted as personal expenses of the deceased	67,500 / 3 = Rs.22,500/- = Rs.45,000/-	
4.	Compensation after multiplier of 14 applied	45,000 x 14	Rs.6,30,000/-
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 three claimants @ Rs. 40,000/-	40,000 + 8,000 = 48,000/- with increase of 10% in every three years	Rs.1,44,000/-
7.	Funeral Expenses	15,000 + 3,000 with increase of 10% in every three years	Rs.18,000/-
		Total Compensation Awarded	**Rs.8,10,000/-**

24. In the said circumstance, the total compensation comes to **Rs.8,10,000/-**. After deducting Rs.7,00,000/- as awarded by the Claims Tribunal, the enhancement would be **Rs.1,10,000/-**.

25. In the result, the appeal filed by the claimants is allowed in part. The impugned award is modified to the extent indicated herein-above. The claimants shall be entitled to Rs.1,10,000/- in addition to what is already awarded by the Claims Tribunal. The enhanced amount will carry interest @ 7.5% from the date of filing of the claim application till its realization. The other conditions imposed by the learned Claims Tribunal shall remain intact.

26. Since it is an admitted position on record that, on the date of the accident, respondent No. 3 was driving the offending ambulance in the course of his employment under respondent No. 4 (State/Health Department), and the vehicle was owned and controlled by respondent No. 4, the liability to satisfy the award shall rest solely upon respondent No. 4. Accordingly, respondent No. 4 is directed to deposit the enhanced amount of compensation in favour of the claimants, as determined and modified by this Court, within a period of 60 days from the date of production of a certified copy of this judgment.

27. Let the entire record of the concerned Motor Accident Claims Tribunal be transmitted forthwith, along with a copy of this judgment, for necessary compliance.

Sd/-

(Amitendra Kishore Prasad)
Judge

Yogesh