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HIGH COURT OF CHHATTISGARH AT BILASPUR

MAC No. 945 of 2017

1 - Sushil Kumar Singh S/o Shri Narendra Singh, Aged About 32 Years
R/o Ward No.2, Jyoti Nagar, Pali Road, Dipka District Korba,
Chhattisgarh Owner, Chhattisgarh

--- **Appellant**

versus

1 - Smt. Sillo Bai And Others W/o Late Ramlal Khairwar, Aged About 46
Years R/o Village Muru, P.S. Hirri, Tahsil Takhatpur, District Bilaspur,
Chhattisgarh, Chhattisgarh

2 - Smt. Ramwati Khairwa W/o Shobha Ram, Aged About 75 Years R/o
Village Muru, P.S. Hirri, Tahsil Takhatpur, District Bilaspur,
Chhattisgarh Claimants, District : Bilaspur, Chhattisgarh

3 - Vimal Das Mahant S/o Dhum Das, R/o Village Bhalspahri, p.O.
Mudhali, P.S. Kusmunda, District Korba, Chhattisgarh Driver,
District : Korba, Chhattisgarh

4 - The National Insurance Company Limited, Through Its Branch
Manager, National Insurance Company Limited, Branch Office At 13,
Meenu Complex, Main Road, Kosabadi, Korba, District Korba,
Chhattisgarh Insurer, District : Korba, Chhattisgarh

--- **Respondent(s)**

(Cause title is taken from Case Information System)

For Appellant	:	Mr. Ajay Kumar Dwivedi, Advocate
For Resp. No. 1	:	Mr. Anurag Agrawal, Advocate holding brief on behalf of Mr. Abhijeet Mishra, Advocate
For Resp. No. 4	:	Mr. G. V. K. Rao, Advocate

MAC No. 602 of 2017

1 - Smt. Sillo Bai W/o Late Ram Lal Khairwar, Aged About 46 Years R/o
Village Muru, P.S. Hirri, Tahsil Takhatpur, Distt. Bilaspur, Chhattisgarh,
Chhattisgarh

2 - Smt. Ramwati Khairwar (Died And Deleted) As Per Court Order Dated 26-02-2026.

--- Appellant

Versus

1 - Vimal Das Mahant S/o Dhum Das, Aged About 24 Years R/o Village Bhalpahri, P.O. Mudhali, P.S. Kusmunda, Distt. Korba, Chhattisgarh Driver, Chhattisgarh

2 - Sushil Kumar Singh S/o Narendra Singh, Aged About 32 Years R/o Ward No.2, Jyoti Nagar, Pali Road, Dipka, Distt. Korba, Chhattisgarh, Presently R/o Ward No.5, Subhash Nagar, Behind I C I C I Bank, Near Water Tank, Dipka, Distt. Korba, Chhattisgarh Owner, District : Korba, Chhattisgarh

3 - National Insurance Company Limited, Through Its Branch Manager, National Insurance Co.Ltd., Branch Office At 13, Meenu Complex, Main Road, Kosa Badi, Korba, Distt. Korba, Chhattisgarh Insurer, District : Korba, Chhattisgarh

--- Respondent(s)

(Cause title is taken from Case Information System)

For Appellant	:	Mr. Anurag Agrawal, Advocate holding brief on behalf of Mr. Abhijeet Mishra, Advocate
For Resp. No. 2	:	Mr. Ajay Kumar Dwivedi, Advocate
For Resp. No. 3	:	Mr. G. V. K. Rao, Advocate

(Hon'ble Shri Amitendra Kishore Prasad, Judge)

Order on Board

26/02/2026

1. Heard on I.A. No. 01 of 2023, which is an application for deleting the name of appellant No. 2.
2. On due consideration of the reasons mentioned in the application, the same is allowed. Learned counsel for the appellant is directed to carry out necessary correction / amendment in the cause-title of appeal during course of the day.

3. With the consent of parties, the appeals are heard finally.
4. The present appeals are being decided by this common order, as both arise out of the same award dated 10.03.2017 passed by the Additional Motor Accident Claims Tribunal, Bilaspur (C.G.) in Claim Case No. 104/2016. M.A.C. No. 602 of 2017 has been filed by the claimants seeking enhancement of the compensation awarded by the Tribunal, whereas M.A.C. No. 945 of 2017 has been preferred by the owner of the offending vehicle challenging the liability imposed upon it by the Tribunal.
5. The case of the claimants is that on 12.12.2015, the deceased, Ramlal Khairwar, was travelling on his motorcycle from Chakarbhata to Village Muru. Near Village Chhatauna, in front of the CSEB Office, his motorcycle dashed against a truck bearing Registration No. CG-12-C-3023, which was allegedly parked negligently in the middle of the road without any signal or indication. Due to the impact, Ramlal Khairwar sustained multiple grievous injuries and succumbed to them.
6. An offence was registered against the driver of the offending truck and a charge-sheet was filed. The claimants filed a petition under Section 166 of the Motor Vehicles Act, 1988 seeking compensation of Rs. 22,34,000/- under various heads against the driver, owner and insurer of the offending truck. The owner and driver contested the claim by submitting that the accident occurred due to the rash and negligent driving of the deceased himself and that he was responsible for the accident. They further denied the

alleged income and dependency of the claimants. The insurance company also filed its reply denying the material averments, disputing the income and dependency, and contending that the deceased himself was negligent. It was further pleaded that the insurer of the motorcycle had not been impleaded as a party.

7. After recording evidence and hearing the parties, the learned Claims Tribunal partly allowed the claim petition by awarding a sum of Rs. 4,71,840/- as compensation. However, the Tribunal exonerated the insurance company from liability and held the driver and owner of the offending truck liable to pay the compensation.
8. Aggrieved by the quantum of compensation awarded, the claimants have filed M.A.C. No. 602 of 2017 seeking enhancement. On the other hand, the owner of the offending vehicle has filed M.A.C. No. 945 of 2017 challenging the findings regarding liability and the fastening of responsibility upon it.
9. The learned counsel appearing for the appellant/owner of the offending vehicle in **M.A.C. No. 945 of 2017** submits that the learned Claims Tribunal has acted illegally and with material irregularity in passing the impugned award dated 10.03.2017, whereby a sum of Rs. 4,71,840/- has been awarded as compensation. It is contended that the findings recorded by the Tribunal are not in accordance with law and are liable to be set aside. According to the appellant, the award has been passed in a mechanical manner without proper appreciation of the pleadings

and evidence brought on record by the parties. It is further submitted that the learned Tribunal has grossly erred in not appreciating the material available on record in its correct perspective. The evidence, both oral and documentary, was not properly scrutinized, and the conclusions drawn are contrary to the weight of evidence. The Tribunal failed to consider the specific defence raised by the appellant regarding negligence and liability, and thus arrived at an erroneous finding which has resulted in an unjust award. Learned counsel contends that the Tribunal, without properly considering the material available on record, proceeded on conjectures and surmises while passing the impugned award. The findings regarding negligence as well as fastening of liability upon the appellant are stated to be unsupported by cogent reasoning. It is argued that the Tribunal did not record clear and reasoned findings based on evidence but rather relied upon assumptions, thereby vitiating the award. It is also urged that the impugned award is illegal, erroneous and contrary to the settled principles governing adjudication of claims under Section 166 of the Motor Vehicles Act, 1988. The Tribunal has failed to apply the correct legal parameters while determining liability and compensation, which has resulted in miscarriage of justice. The learned counsel further submits that all oral and documentary evidence placed on record has not been scanned and appreciated in its true perspective. Relevant aspects of the defence have been ignored, and the award has been passed

without proper evaluation of the evidence, thereby causing serious prejudice to the appellant. On the aforesaid grounds, it is prayed that this Court may kindly be pleased to allow the appeal filed by the appellant/owner, set aside the impugned award dated 10.03.2017, and grant such other relief as deemed fit in the interest of justice.

10. The learned counsel appearing for the claimants in **M.A.C. No. 602 of 2017** submits that the learned Claims Tribunal has erred both in law and on facts while determining the amount of compensation and passing the impugned award dated 10.03.2017. It is contended that the compensation awarded is wholly inadequate and does not reflect just and fair compensation as contemplated under Section 166 of the Motor Vehicles Act, 1988. Therefore, the award is liable to be suitably enhanced. It is further submitted that the learned Tribunal has committed a serious error in assessing the monthly income of the deceased on the basis of Rs. 132/- per day under the Minimum Wages Act and thereby calculating his monthly income as Rs. 3,960/-. Learned counsel argues that the deceased was not an unskilled labourer but an experienced and skilled mason as well as an agriculturist, who was earning Rs. 300/- per day, i.e., approximately Rs. 9,000/- per month. The Tribunal failed to appreciate the oral evidence adduced regarding his income. It is contended that non-production of documentary proof of income cannot be a ground to discard reliable oral evidence, particularly in cases involving persons

engaged in informal occupations. The assessment of income at Rs. 132/- per day is, therefore, arbitrary and liable to be enhanced to Rs. 9,000/- per month. Learned counsel further submits that the Tribunal has erred in ignoring the evidence available on record regarding the earning capacity of the deceased and, without proper discussion or reasoning, mechanically adopted minimum wages. Such an approach, it is argued, has resulted in substantial reduction of compensation and is contrary to settled principles governing assessment of income in motor accident claims. It is also contended that the learned Tribunal has awarded very meagre amounts under conventional heads such as funeral expenses, loss of consortium, loss of estate and loss of love and affection. The Tribunal ought to have awarded appropriate and reasonable compensation under these heads in accordance with prevailing legal standards. The inadequate amounts awarded under these heads have resulted in unjust compensation to the claimants. The learned counsel further submits that the Tribunal has erred in deducting one-third of the income towards personal expenses and in applying an incorrect multiplier. It is also argued that the Tribunal failed to award any amount towards future prospects. Considering the age and occupation of the deceased, future prospects ought to have been added at the rate of 50% of the established income. The failure to grant compensation under this head has substantially reduced the overall award and warrants enhancement. It is further contended that the Tribunal

has gravely erred in exonerating the insurance company from its liability. The defence regarding breach of policy conditions, if any, is a matter between the insurer and the insured. Even assuming such breach, the Tribunal ought to have directed the insurance company to first satisfy the award and thereafter recover the amount from the owner under the principle of "pay and recover." The complete exoneration of the insurer has caused grave hardship to the claimants and is contrary to the law laid down by the Hon'ble Supreme Court. Learned counsel also submits that the Tribunal erred in holding that the owner failed to prove that the driver possessed a valid driving licence at the time of the accident. It is argued that the seizure memo indicated that the driving licence had been seized during investigation, and it was open to the insurance company to obtain a copy of the licence from the charge-sheet filed in the criminal case and to verify its genuineness. The insurer failed to produce any verification report to establish breach of policy conditions. Despite this, the Tribunal wrongly shifted the burden upon the owner and exonerated the insurer, which finding is erroneous and liable to be set aside. Lastly, it is submitted that the learned Tribunal has not appreciated the oral and documentary evidence on record in its proper perspective and has arrived at erroneous conclusions, resulting in an unjust and inadequate award. The impugned award, therefore, deserves to be modified. On these grounds, it is prayed that this Court may be pleased to allow the appeal, enhance the

compensation amount by suitably modifying the impugned award, and fasten liability upon the insurance company to pay the compensation in the first instance with liberty to recover the same from the owner of the offending vehicle, in the interest of justice.

11. I have heard learned counsel appearing for the parties and perused the record of the Tribunal including award impugned.
12. So far as M.A.C. No. 945 of 2017 filed by the owner of the offending vehicle is concerned, the principal contention of the appellant is that the learned Tribunal has erred in fastening liability upon the owner and in exonerating the insurance company.
13. Upon perusal of the record, it is evident that the Tribunal, after appreciation of oral and documentary evidence, recorded a categorical finding that the driver of the offending vehicle was not holding a valid and effective driving licence at the time of the accident. The owner failed to discharge the burden cast upon him to prove that the driver was duly licensed. The finding regarding absence of a valid and effective driving licence is a finding of fact based on appreciation of evidence on record. No material has been brought before this Court to demonstrate that the said finding is perverse or contrary to evidence. In the absence of proof that the driver was holding a valid licence, the Tribunal was justified in exonerating the insurance company and fastening the liability upon the owner of the offending vehicle.
14. In view of the aforesaid, it cannot be said that the learned Tribunal committed any illegality or material irregularity in holding the

owner liable to satisfy the award. The contention that the Tribunal acted on conjectures and surmises is not borne out from the record. The award, insofar as it relates to liability, is based on proper appreciation of evidence and settled principles of law. Accordingly, the appeal preferred by the owner of the offending vehicle, being M.A.C. No. 945 of 2017, is devoid of merits and is hereby **dismissed**.

15. Now advertent to M.A.C. No. 602 of 2017 filed by the claimants seeking enhancement of compensation, the principal grievance of the claimant is that the learned Tribunal has failed to award just and reasonable compensation, having not properly assessed the income of the deceased and having omitted to grant future prospects as well as adequate amounts under the conventional heads. The contention of the appellants has substance. The learned Tribunal has not taken into account the law laid down by the Hon'ble Supreme Court in the matter of **National Insurance Co. Ltd. v. Pranay Sethi**, reported in **(2017) 16 SCC 680**, wherein it has been held that the income of the deceased must be enhanced towards future prospects.

16. it is evident that the learned Tribunal assessed the income of the deceased on the basis of Rs. 132/- per day and calculated the monthly income as Rs. 3,960/-. However, on the date of incident i.e. 12.12.2015, the applicable minimum wages for an unskilled labourer for the period 01.10.2015 to 31.03.2016 were Rs. 5,860/- per month. The learned Tribunal erred in not taking into

consideration the correct minimum wages applicable at the relevant time. Accordingly, the monthly income of the deceased is taken as Rs. 5,860/-. The annual income thus comes to Rs. 70,320/-. The learned Tribunal further erred in not granting any amount towards future prospects. The deceased was aged about 50 years at the time of the accident; therefore, 25% is to be added towards future prospects. Thus, the total annual income after addition of future prospects is Rs. 87,900/-. The deduction of one-third towards personal expenses, as applied by the learned Tribunal, is found to be correct. After deduction, the annual contribution to the family comes to Rs. 58,600/-. The multiplier of 13 applied by the learned Tribunal is also found to be appropriate considering the age of the deceased. Therefore, the loss of dependency is calculated as Rs. 7,61,800/-. In view of the above recalculation, the amount comes to Rs. 7,61,800/- under the head of loss of dependency.

17. As regards compensation under the conventional heads, this Court finds that the amounts awarded by the Tribunal are on the lower side and not in consonance with the prevailing standards laid down in **Pranay Sethi** (supra) and **Magma General Insurance Co. Ltd. v. Nanu Ram**, reported in **(2018) 18 SCC 130**. Therefore, the same deserve suitable enhancement. The claimant shall be entitled for grant of Rs. 48,000 /- (40,000/- + 10% + 10%)(with increase of 10% in every three years) to the claimant as compensation towards loss of consortium. The

claimant is further entitled for Rs. 18,000/- towards loss of estate (increase of 10% in every three years) and Rs. 18,000/- for funeral expenses (increase of 10% in every three years. Accordingly, the claimants would become entitled for total compensation of **Rs. 8,45,800 /-** in the following manner:-

S.No.	Heads	Calculation
01.	Towards loss of Income	Rs. 7,61,800/-
02.	Towards consortium	Rs. 48,000/-
04.	Towards loss of estate	Rs. 18,000/-
05.	Towards Funeral Expenses	Rs. 18,000/-
	Total	Rs. 8,45,800/-

18. Accordingly, the total compensation is enhanced to Rs. 8,45,800/- from Rs. 4,71,840/-. Thus, there is an enhancement of **Rs. 3,73,960/-**, which shall carry interest at the rate of 6% from the date of filing claim petition till realization.
19. As a result, the **MAC No. 602 of 2017** is **allowed** in part. The award dated 10.03.2017 is modified to the extent indicated above. Rest of the terms and conditions of the Tribunal’s award remain intact.
- Certified Copy as per rules.

Shayna

Sd/-
(Amitendra Kishore Prasad)
JUDGE