



CGHC010200692021



2026:CGHC:37215

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HIGH COURT OF CHHATTISGARH AT BILASPUR**MAC No. 457 of 2021**

- 1** - Smt. Lumani Yadav W/o Late Budhram Yadav, Aged About 36 Years R/o Village Negi Para Madpal, Post Madpal, Police Station Nagarnar, District Bastar (Chhattisgarh).
- 2** - Kumari Runa Yadav, D/o Late Budhram Yadav, Aged About 19 Years R/o Village Negi Para Madpal, Post Madpal, Police Station Nagarnar, District Bastar (Chhattisgarh).
- 3** - Kumari Savita Yadav, D/o Late Budhram Yadav, Aged About 18 Years R/o Village Negi Para Madpal, Post Madpal, Police Station Nagarnar, District Bastar (Chhattisgarh).
- 4** - Ku. Hemlata Yadav, D/o Late Budhram Yadav, Aged About 15 Years Minor Through Natural Guardian Mother Smt. Lumani Yadav W/o Late Budhram Yadav (Appellant No. 1) R/o Village Negi Para Madpal, Post Madpal, Police Station Nagarnar, District Bastar (Chhattisgarh).
- 5** - Sitaram Yadav S/o Late Budhram Yadav, Aged About 12 Years Minor Through Natural Guardian Mother Smt. Lumani Yadav W/o Late Budhram Yadav (Appellant No. 1) R/o Village Negi Para Madpal, Post Madpal, Police Station Nagarnar, District Bastar (Chhattisgarh).
- 6** - Kumari Sushila Yadav D/o Late Budhram Yadav, Aged About 9 Years Minor Through Natural Guardian Mother Smt. Lumani Yadav W/o Late Budhram Yadav (Appellant No. 1) R/o Village Negi Para Madpal, Post Madpal, Police Station Nagarnar, District Bastar (Chhattisgarh).

7 - Kamlochan Yadav S/o Late Mangal Das Yadav, Aged About 70 Years
R/o Village Negi Para Madpal, Post Madpal, Police Station Nagarnar,
District Bastar (Chhattisgarh).

... Appellant(s)

versus

1 - Sushil Kumar @ Sonu S/o Krishna Prasad, Aged About 25 Years
Occupation Driver, R/o. R.B.P.R. Company Nagarnar, N.M.D.C. Steel
Plant Parisar, Nagarnar, Police Station Nagarnar, District Bastar
(Chhattisgarh).

2 - R.V. Purnachand Rao S/o R. Nageshwar Rao, Aged About 59 Years
C/o. C. Jairamaiya S/o Laxminarayan, Aged About 51 Years, R/o House
No. Hig-22, Housing Board Colony, Abdulkalam Ward, Jagdalpur,
District Bastar (Chhattisgarh).

3 - The United India Insurance Company Limited, Through Branch
Manager, Anupma Chowk Jagdalpur, District Bastar Chhattisgarh.

... Respondent(s)

For Appellants/Claimants	:	Mr. Praveen Dhurandhar, Advocate.
For Respondent Nos. 1 & 2	:	None.
For Respondent No.3	;	Mr. Pravin Kumar Tulsyan, Advocate.

Hon'ble Shri Justice Sanjay Kumar Jaiswal

Judgment on Board

(19.08.2026)

1. This appeal under Section 173 of the Motor Vehicles Act, 1988 (for short the "Act of 1988") has been preferred by the appellants/claimants seeking enhancement of the amount of compensation, challenging the impugned award dated 16.03.2021, passed in Claim Case No.17/19, whereby the learned Claims Tribunal has awarded a total sum of Rs.24,06,640/- as compensation for the death of Late Budhram Yadav, who died in a road accident which took place on 23.10.2018.

2. Facts of the case, in brief, are that, on 23.10.2018, deceased, namely, Budhram Yadav, was proceeding on foot while performing his duties at Junction House, NMDC, Nagarnar. At that time, the driver of Hydra vehicle bearing registration No. KA-34-M-9743 (hereinafter referred to as “the offending vehicle”) allegedly drove the vehicle in a rash and negligent manner and, while so driving, struck the deceased from behind. As a result of the injuries sustained in the said accident, the deceased was taken to Medical College, Dimrapal, where he succumbed to his injuries during treatment.
3. A claim petition was filed by the appellants/claimants, who happen to be the legal heir of the deceased claiming a compensation of Rs.35,00,000/- *inter alia* pleading that the deceased at the relevant time was aged about 39 years, he was employed with K.R.V.P.R. Company at the under-construction Nagarnar Steel Plant and earning approximately Rs.15,000/- per month.
4. Pleading of the claimants have, however, been denied by the respondent/insurance company.
5. After evaluating the evidence available on record, the Tribunal has awarded the compensation of Rs.14,88,080/- along with interest @ 9% per annum in favour of the appellants/claimants taking the monthly income of the deceased as Rs.10,400/- per month and Rs.1,24,800/- per annum, taking 40% towards future prospect, applying the multiplier of 15 and deducting 1/5th towards his personal expenses. Hence, this appeal for enhancement.

Submission

6. Learned counsel for the appellants submitted that the learned Claims Tribunal has committed error of law in assessing the monthly income of the deceased. The pay slip (Ex.P-A-10) of the deceased, which has been duly proved by Jairam Ayyar (AW-1),

General Manager, R.B.P.R. Construction Company, according to which the monthly salary of the deceased was Rs.10,925/- but the learned Claims Tribunal, taking into consideration 26 working days, assessed the monthly income of the deceased as Rs.10,400/-, which is not proper and justified. It is, therefore, submitted that the monthly income of the deceased ought to have been assessed at Rs.10,925/- instead of Rs.10,400/-. Learned counsel further submits that the deceased was a salaried person holding a permanent job and, therefore, an addition of 50% of his established income towards future prospects ought to have been made but the learned Claims Tribunal restricted the addition towards future prospects to 40%, which is contrary to the settled principles governing the assessment of compensation. Thus, the addition towards future prospects be enhanced from 40% to 50%. It has been also contended that though the learned Claims Tribunal, having considered that the deceased left behind 07 dependents and was aged between 39-40, has properly deducted 1/5th towards personal expenses and applied multiplier of 15, but under the conventional heads has awarded meager compensation, which needs to be enhanced suitably. It is, therefore, submitted that the impugned award be modified accordingly.

7. None for respondent Nos. 1 and 2.
8. Learned counsel for respondent No.3/insurance company would submit that the Claims Tribunal after appreciating oral and documentary evidence available on record rightly awarded the compensation amount. Learned counsel further submits that the learned Tribunal after taking into consideration the number of days present and daily rate i.e. Rs.400/-, which is mentioned in pay slip (Ex.P.10-A), has rightly assessed the monthly income at Rs.10,400/-. Learned counsel further submits that the deceased was not in permanent employment and was a daily wage

employee, as such, 40% towards future prospect taken by the learned Claims Tribunal is just and proper. Hence, the compensation awarded by the Claims Tribunal is just and proper and requires no interference.

9. I have heard learned counsel for the appellant and respondent No.3, considered their rival submissions made herein-above and went through the records with utmost circumspection.

Enhancement

10. In the present case, the appellants/claimants pleaded before the Claims Tribunal that the deceased Budhram Yadav was Mechanic working in RVPR Construction Company and drawing monthly salary of Rs.10,925/-, but the learned Claims Tribunal, taking into consideration the number of days present and basic rate (Rs.400) per day mentioned in the pay slip (Ex.A-10), assessed the monthly income at Rs.10,400/-. In this regard, the claimants have examined Mr. Jai Ram Ayyar (AW-3), General Manager, RBPR Company, Nagarnar, and perusal of the entire statement of Mr. Jai Ram Ayyar, it is found that although the working days were 26 but the monthly salary of Rs.10,925/- was being paid to the deceased. In these circumstances, it would be proper to take monthly income of the deceased as **Rs.10,925/-**. Further, it is found that the deceased was not permanent employee, therefore, in view of law laid down by Hon'ble Supreme Court in **National Insurance Company Vs. Pranay Sethi & Ors (2017) 16 SCC 680**, the addition of 40% towards future prospect is just and proper. Therefore, to that extent the impugned award needs to be modified.
11. The learned Claims Tribunal, after taking into consideration the number of claimants (07) and age of the deceased between 39-40, has rightly deducted 1/5th towards his personal expenses and applied multiplier of 15.

- 12.** The learned claims Tribunal has awarded an amount of Rs.40,000/- towards spousal consortium to appellant No.1, Rs.40,000/- each towards parental consortium to appellant Nos. 2 to 6 and Rs.40,000/- towards filial consortium to appellant No.7, along with Rs.15,000/- towards loss of estate and Rs.15,000/- towards funeral expenses, which in the facts and circumstances of the case, is just and proper.

Liability

- 13.** It was also submitted by learned counsel for respondent No.3- Insurance Company that the risk of the deceased was not covered under the insurance policy and that the finding of the learned Tribunal treating the deceased as a third party is not proper.
- 14.** Learned counsel appearing for the appellants has opposed the aforesaid contention.
- 15.** On perusal of paragraph 21 of the impugned award passed by the learned Claims Tribunal, it is apparent that at the time of the accident, the deceased was working as a labourer and was engaged in loading and unloading work, and that the accident occurred due to rash and negligent driving of the driver of the offending vehicle. Therefore, the deceased has rightly been treated as a third party. The said finding is found to be proper. Consequently, the contention raised by the Insurance Company is not found worthy of acceptance.

Deducted Part

- 16.** Learned counsel appearing for the appellants/claimants has pointed out that in the impugned award, the learned Tribunal, having found that the deceased was insured as a labourer and that The New India Assurance Company had deposited a bank draft of Rs.7,68,560/- before the Commissioner, Workmen's Compensation Court, and that, as immediate assistance after the death of Budhram Yadav, the owner of the offending vehicle had

paid Rs.50,000/- in cash and Rs.1,00,000/- by cheque, has erred in deducting the aforesaid amount of Rs.9,18,560/- from the total amount of compensation and determining the liability of the Insurance Company accordingly. It is submitted that the said deduction is erroneous, as the claimants have neither received the amount deposited before the Commissioner, Workmen's Compensation Court, nor is the said amount liable to be taken into consideration while determining the compensation in the present claim, as the same represented the insurance amount payable to the deceased in the capacity as a workman. In support of his submission, learned counsel has placed reliance upon the judgment of Hon'ble Apex Court in **Managing Director, KSRTC v. P. Chandramouli and Others**, reported in (2026) SCC OnLine SC 375, paragraph 16 whereof is reproduced hereinbelow:

“16. In view of the foregoing discussion, and in light of the settled principles laid down by this Court in Helen C. Rebello (Supra), it is clear that amounts received by the dependants of the deceased under employer-provided group insurance or other contractual or social security benefits cannot be treated as ‘pecuniary advantages’ liable to be deducted from compensation awarded under the Motor Vehicles Act, 1988. Such benefits arise out of an independent contractual relationship and lack the requisite nexus with the statutory compensation payable for death in a motor vehicle accident. The principle of balancing loss and gain cannot therefore be invoked to diminish the statutory entitlement of the claimants to just compensation.”

17. Learned counsel appearing for the respondent No.3-Insurance Company has submitted that the deduction made by the learned Tribunal, in the facts and circumstances of the case, is just and

proper requiring no interference.

18. In view of the aforesaid judicial pronouncement in ***P. Chandramouli (supra)***, it is found that the amount payable under the insurance policy covering the deceased in his capacity as a workman is not liable to be deducted from the compensation payable in the present motor accident claim, as the same arose out of a separate contract. Similarly, the amount stated to have been paid by the “owner of the offending vehicle” is also not liable to be deducted. Therefore, the deduction of Rs.9,18,560/- from the total amount of compensation calculated by the learned Claims Tribunal is found to be unsustainable. Accordingly, to that extent, the impugned award modified.

Re-assessment

19. 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, Magma General Insurance Co. Ltd. v. Nanu Ram @ Chuhru Ram & Ors³** and **Managing Director, KSRTC v. P. Chandramouli and Others⁴**, this Court is computing the compensation as below:-

Sr. No.	Heads	Compensation awarded by the Tribunal	Compensation awarded by this Court
1	Income	Rs. 10,400x12 = 1,24,800/-	Rs. 10,925x12 = 1,31,100/-
2.	Future prospect	(+)40% (i.e. Rs. 49,920/-) = 1,74,720/-	(+)40% (i.e. Rs. 52,440) = 1,83,540/-
3.	Deduction	(-) 1/5 (i.e.Rs.34,944	(-) 1/5 (i.e. 36,708) =

1 (2017) 16 SCC 680
2 (2009) 6 SCC 121
3 (2018) 18 SCC 130
4 (2026) SCC OnLine SC 375

		) = 1,39,776/-	1,46,832/-
4.	Multiplier	(x) 15 = 20,96,640/-	(x) 15 = 22,02,480/-
5	Towards Loss of consortium to all 07 claimants	Rs. 2,80,000/-	Rs. 40,000 x 7 = Rs.2,80,000/-
6.	Towards Loss of Estate	Rs.15,000/-	Rs.15,000/-
7.	Towards funeral expenses	Rs.15,000/-	Rs.15,000/-
8.		(-) Rs.9,18,560/- (Deduction of amount under insurance policy covering the deceased 'workman' and the amount deposited by the owner of the offending vehicle.)	
	Total	Rs. 14,88,080/-	Rs. 25,12,480/-

- 20.** In view of the aforesaid analysis, the amount of compensation of Rs.14,88,080/- awarded by the Claims Tribunal is enhanced to Rs.25,12,480/-. Hence, after deducting the amount of Rs.14,88,080/-, the appellants are held entitled for an additional amount of **Rs.10,24,400/-**. The additional amount of compensation shall carry interest @ 6% per annum from the date of filing of the claim application before the Claims Tribunal till its realization. Rest of the conditions of the impugned award shall remain intact.
- 21.** In the result, the appeal is **partly allowed** and the impugned award is modified to the extent as indicated herein-above.

- 22.** The Registry is directed to communicate the claimants in writing “the enhanced amount” in this appeal as against the award made by the concerned Tribunal. The said communication be made in Hindi Deonagri language and the help of paralegal workers may be availed with a co-ordination of Secretary, Legal Aid of the concerned area wherein the claimants resides.

Sd-

(Sanjay Kumar Jaiswal)
Judge

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