



2026:CGHC:10599



NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MAC No. 1082 of 2017

Judgment Reserved on : 16/02/2026

Judgment Delivered on : 28/02/2026

Mansai Rajwade S/o Duldul Rajwade, Aged About 61 Years, Retired Employee, R/o Village Kapsara, Police Station Bhatgaon and Tahsil Pratappur, District Surajpur, Chhattisgarh..... Owner-Cum-Driver of TVS Moped No. CG-15/CF– 5384,

--- Appellant

versus

1 - Smt. Panmeshri W/o Late Raju Ram, Aged About 23 Years,
2 - Anuj Kumar, S/o Late Raju Ram, Aged About 3 Years, Minor Through The Natural Guardian Mother, namely, Smt. Panmeshwari,
3 - Shivnarayan, S/o Late Sachhu, Aged About 51 Years,
4 - Dilbasiya, W/o Shivnarayan, Aged About 49 Years,
All are R/o Village Korandha, Police Station Bhatgaon, Tahsil Pratappur, District Surajpur, Chhattisgarh.

--- Respondents

AND

MAC No. 1112 of 2016

1 - Smt. Panmeshri W/o Late Raju Ram, Aged About 22 Years,
2 - Anuj Kumar, S/o Late Raju Ram, Aged About 2 Years Minor, Represented Through Mother and Legal Guardian Panmeshri,
3 - Shivnarayan, S/o Late Sachchu, Aged About 50 Years,
4 - Dilbasiya, W/o Shivnarayan, Aged About 48 Years,
All are by Caste- Rajwar, R/o - Village Korandha, Police Station- Bhatgaon, Tahsil- Pratappur, District- Surajpur, Chhattisgarh,.....Claimants.

**Versus**

Mansai Rajwade S/o Duldul Rajwade, Occupation- Service, S.E.C.L., Bhatgaon Area, R/o- Village- Kapsara, Police Station and Tahsil- Pratappur, District- Surajpur, Chhattisgarh,.....Owner and Driver of Vehicle Moped No. C.G.-15-CF-5384,

--- Respondent

For Appellant (in MAC No.1082/2017) and For Respondent (in MAC No.1112/2016)	: Mr. T.R. Chandrakar, Advocate on behalf of Mr. V.K. Pandey, Advocate
For Appellant (in MAC No.1112/2016) and For Respondent (in MAC No.1082/2017)	: Mr. D.N. Prajapati, and Mr. Krishnakant Prajapati, Advocates

Hon'ble Shri Justice Radhakishan Agrawal**CAV Judgment**

1. The above-captioned appeals have been filed by Non-Applicant No.1- Mansai Rajwade, who is the owner-cum-driver of the TVS Moped bearing registration No.CG-15-CF-5384, and by the claimants under Section 173 of the Motor Vehicles Act, 1988. Both appeals arise out of the common award dated 20.07.2016 passed by the learned Additional Motor Accident Claims Tribunal, Pratappur, District Surajpur (C.G.) in Motor Accident Claim Case No. 34/2015. By the said award, the learned Claims Tribunal assessed the total compensation at Rs.8,26,200/-, but after deducting 75% towards contributory negligence attributed to the deceased, awarded a sum of Rs. 2,06,550/- to the claimants, along with interest. The Tribunal further held that there was 25% contributory negligence on the part of Non-Applicant No. 1/ owner-cum-driver of the moped.
2. MAC No. 1082 of 2017 has been preferred by the owner-cum-driver of the offending vehicle challenging the findings on negligence. MAC No.



1112 of 2016 has been filed by the claimants seeking enhancement of compensation and assailing the finding of contributory negligence. Since both appeals arise out of the same award, they are being disposed of by this common judgment.

3. As per the averments made in the claim petition, on 13.05.2015 at about 7:40 PM, deceased Rajuram was riding his Hero Deluxe motorcycle bearing registration No. CG-15-CL-4042 (hereinafter referred to as 'the motorcycle') towards Village Korandha on Kapsara Main Road, within the jurisdiction of Police Station Bhatgaon, District Surajpur. While he was proceeding on his correct side of the road, Non-Applicant No.1 - Mansai Rajwade, who was driving TVS Moped bearing registration No. CG-15-CF-5384 (hereinafter referred to as 'the moped'), allegedly drove the vehicle in a rash and negligent manner and dashed against the motorcycle of the deceased. As a result of the impact, the deceased sustained grievous injuries and succumbed to the same at the spot. Thereafter, an FIR under Section 304-A IPC was registered against the Non-Applicant No.1 – Mansai Rajwade and after investigation, charge-sheet was filed against him. It is pertinent to mention here that at the time of accident, both the vehicles were not insured.
4. On account of death of deceased Rajuram, a claim petition was filed by the claimants under Section 166 of the Motor Vehicles Act, 1988 seeking compensation to the tune of Rs.20,63,000/- under various heads. However, the learned Tribunal vide common award dated 20.07.2016, awarded a compensation as mentioned in paragraph 1 of this judgment. Hence, these appeals.



5. Learned counsel appearing for the appellant/owner-cum-driver of the moped (in MAC No.1082/2017) submitted that the accident occurred due to negligence of the deceased – Rajuram as the deceased himself was driving the motorcycle in a rash and negligent manner and dashed the moped of the appellant – Mansai Rajwade from behind, as such, the claimants are not entitled to any compensation. He further submitted that the learned Claims Tribunal has wrongly held 25% contributory negligence on the part of the appellant – Mansai and therefore, the findings of the Claims Tribunal is erroneous. He further contended that the claimants have not produced any eye-witness in support of their claim case. Thus, the impugned award passed by the learned Claims Tribunal deserves to be set-aside.
6. Learned counsel for the claimants submitted that the learned Claims Tribunal has erred in holding that the deceased, Rajuram, was liable for 75% contributory negligence. It is contended that Non-Applicant No. 1, Mansai, did not adduce any evidence to establish negligence on the part of the deceased at the time of the accident. Moreover, the police filed a charge-sheet against the driver/owner of the moped, which, according to the claimants, clearly indicates negligence on his part. Therefore, the finding of contributory negligence attributed to the deceased is stated to be unsustainable and erroneous.

It is further submitted that the learned Claims Tribunal has incorrectly assessed the monthly income of the deceased at ₹4,500/-. Considering the applicable minimum wages prevailing at the relevant point of time, the income ought to have been assessed at ₹5,787/- per month. Additionally, it is argued that the Tribunal failed to award any amount towards future prospects and, though the deduction of 1/3



towards personal and living expense is correct but granted only a meagre sum under the conventional heads. On these grounds, the claimants pray that the compensation be suitably enhanced. Reliance has been placed on the decisions of Hon'ble Supreme Court in the matters of *National Insurance Company Limited vs Pranay Sethi and others reported in (2017) 16 SCC 680*, *Magma General Insurance Company Limited vs. Nanu Ram @ Chuhru Ram and others reported in (2018) 18 SCC 130*.

7. Heard learned counsel for the parties and perused the material available on record.
8. To appreciate the respective contentions of the learned counsel for the parties, it would be apt to go through the relevant materials available on record. Smt. Panmeshri (AW-01), who is the wife of the deceased Rajuram, has submitted that she has filed the document such as final report (Ex.P-1) and other relevant documents (Ex.P-2 to Ex.P-9) with regard to the alleged accident. However, in cross-examination, she admitted that at the time of alleged accident, she was at her house and as such, she has not witnessed the accident and that her knowledge regarding the manner of accident was based on the information received from the village Sarpanch Ram Swarup. In his affidavit, Ram Swarup (AW-02) who has been cited as the eye-witness to the incident, has stated that on the date of accident i.e. 13.05.2015 deceased Rajuram was returning to his native village Karaudha from his sister's house situated at Village Darhora on his Hero Deluxe motorcycle at moderate speed. When he reached Banaras Main Road near Village Kapsara, Non-Applicant No.1 - Mansai Rajwade, who was driving his TVS Moped in a rash and negligent manner, dashed the



motorcycle of the deceased. As a result of the said impact, Rajuram sustained grievous injuries and succumbed to the same at the spot. However, this witness in his cross-examination has admitted that he did not tell anything about the incident to the police. He further admitted that a TVS moped is a two-wheeler generally driven at a low speed and voluntarily stated that at the time of the accident, the moped was being driven at a high speed. He also admitted that the Hero Honda motorcycle is a vehicle capable of being driven at high speed. He denied the suggestion that near the tri-junction leading towards Village Kapsara, Non-Applicant No.1 -Mansai was standing near his moped and that the deceased- Rajuram, while driving at high speed, dashed against the stationary moped and fell on the road. He further admitted that in the said accident, Non-Applicant No.1 - Mansai sustained a fracture in his leg and further stated that even at present he is unable to move properly due to the said injury. He also admitted that the collision occurred between the moped driven by Non-Applicant No.1 - Mansai and the motorcycle of the deceased Rajuram.

9. NAW-1 Mansai Rajwade, driver-cum-owner of the moped, admitted that a criminal case in relation to the accident is pending against him before the Judicial Magistrate, Surajpur. He admitted that deceased- Rajuram had died in the said accident and that he knew him. He voluntarily stated that his moped was dashed from behind. He also admitted that he did not possess a valid driving licence to ride a motorcycle at the time of the accident. He also admitted that at the time of the accident, he had become unconscious and, therefore, he is unable to state who had actually witnessed the occurrence of the accident.



Mansai has further stated that after the alleged accident, he was admitted in the hospitals situated at Ambikapur and Bilaspur and in support of his statement, he has produced the medical documents (Ex.D-2 to Ex.D-16). Further, with regard to the incident, Mansai has also filed a complaint vide Ex.D-1 dated 10.11.2015, before the Superintendent of Police, Surajpur but the said complaint has been filed after a delay of about six months.

10. Dilip Kumar Rajwade (NAW-01) has admitted in his cross-examination that the accident took place at a distance of about 6 meters from his shop. He further admitted that when the accident occurred and the driver of the motorcycle fell down at the spot, then he saw him (deceased).
11. As per Ex.D-26, which is an intimation letter sent by the Doctor, SECL Dispensary, Bhatgaon, in which it has been informed that on 13.05.2015 at about 08:35 PM, one patient, namely, Mansai, aged about 58 years was brought to the SECL Dispensary, Bhatgaon who has suffered multiple injuries over his body. This apart, one dead body (deceased) was also brought there by the police who was aged approximately 20-25 years.
12. On an overall appreciation of the evidence on record, this Court finds that the accident cannot be attributed solely to either party. AW-01 Panmeshri is not an eye-witness and her testimony is hearsay. Though AW-02 Ram Swarup supported the claimants' version, but he admitted that he did not inform the police about the incident and conceded that both vehicles were capable of being driven at high speed; he further admitted that Mansai sustained a fracture injury in the same occurrence, indicating a forceful collision. NAW-1 Mansai admitted that



he was driving without a valid licence and that a criminal case is pending against him; however, the medical documents and intimation letter (Ex.D-26) corroborate that he suffered multiple injuries and was hospitalized, thereby suggesting that the impact was not unilateral. The accident occurred near a tri-junction where greater caution was required from both drivers. In the absence of clear and cogent evidence establishing exclusive negligence of one party, and considering the circumstances of the collision, it is held that both the deceased Rajuram and Mansai Rajwade failed to exercise due care and thus equally contributed to the accident. Accordingly, contributory negligence is apportioned at 50% each on the basis of preponderance of probability, and the compensation payable to the claimants shall stand reduced by 50% on account of the deceased's contributory negligence. Thus, the findings recorded by the learned Claims Tribunal in this regard is hereby modified.

- 13.** As regards the income of the deceased – Rajuram is concerned, the Tribunal assessed the monthly income of the deceased at Rs.4,500/- per month on notional basis, which in the considered opinion of this Court is on lower side. Therefore, considering the facts of the case, the CG State Minimum Wages prevailing at the relevant time, and the nature of work of the deceased, I propose to recompute the monthly income of the deceased at Rs.5,787/- i.e. Rs.69,444/- per annum.

Moreover, the Tribunal has erred in not granting any amount towards future prospects, which in the considered opinion of this Court is not just and proper. The Hon'ble Supreme Court in the matter of *Pranay Sethi* (supra) has considered 40% towards loss of future prospects for the self-employed persons who are below 40 years.



Therefore, in the present case, looking to the age of the deceased i.e.

25 years, as assessed by the Tribunal, the applicable percentage towards future prospects would be 40%. Further, taking the guidance from the decisions of the Hon'ble Supreme Court in *Smt. Sarla Verma and others VS. Delhi Transport Corporation and another*, (2009) 6 SCC 121, *Pranay Sethi (supra) & Magma General Insurance Co. Ltd. (supra)*, this Court computes the compensation in the following manner:-

Sl. No.	Heads	Calculation (in rupees)
01.	Income of the deceased @ Rs.5,787/- per month	Rs.69,444/- per annum
02.	40% of (i) above to be added towards future prospects.	Rs.27,778/- Rs.69,444/- + Rs.27,778= Rs.97,222/-
03.	1/3 deduction towards personal and living expenses of the deceased	Rs.32,407/- Rs.97,222 – Rs.32,407/- = Rs.64,815/-
04.	Multiplier of 18 to be applied	Rs.64,815 x 18 = Rs.11,66,670/-
05.	Towards Conventional Heads (loss of estate, funeral expenses and loss of consortium)	Rs.1,90,000/-
	Total Compensation	Rs.13,56,670/-

14. Since this Court has already held that the deceased Rajuram and the injured Mansai Rajwade, driver of the offending vehicle, were negligent to the extent of 50% each, the compensation is liable to be reduced by



50% on account of contributory negligence. Accordingly, after such deduction, the claimants are entitled to a total compensation of Rs.6,78,335/- in place of Rs.2,06,550/- as awarded by the Tribunal. As the Tribunal has already awarded Rs.2,06,550/-, the claimants shall be entitled to an enhanced/additional compensation of Rs.4,71,785/- from Non-Applicant No.1 – Mansai Rajwade. Rest of the conditions of the impugned award shall remain affirmed/intact.

15. Accordingly, both the above captioned appeals stand disposed of. No order as to costs.

Sd/-
(Radhakishan Agrawal)
JUDGE

Prakash