



NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**MAC No. 1065 of 2023**

1 - Smt. Rajkumari Singh W/o Late Shri Palle Singh Aged About 26 Years R/o Ward No. 2, Baigapara, Chanwaridand, Thana - Manendragarh, District - Korea (C.G.)... (Claimants)

2 - Ku. Chandni Singh D/o Late Shri Palle Singh Aged About 8 Years Minor, Through Natural Guardian Mother Smt. Raj Kumari Singh., R/o Ward No. 2, Baigapara, Chanwaridand, Thana - Manendragarh, District - Korea (C.G.)

3 - Ku. Mamta Singh D/o Late Shri Palle Singh Aged About 6 Years Minor, Through Natural Guardian Mother Smt. Raj Kumari Singh., R/o Ward No. 2, Baigapara, Chanwaridand, Thana - Manendragarh, District - Korea (C.G.)

4 - Ku. Radhika Singh D/o Late Shri Palle Singh Aged About 3 Years Minor, Through Natural Guardian Mother Smt. Raj Kumari Singh., R/o Ward No. 2, Baigapara, Chanwaridand, Thana - Manendragarh, District - Korea (C.G.)

... Appellants**versus**

1 - Ashok Kumar Rathore S/o Shri Santosh Kumar Rathore R/o Ward No. 16, Villae - Khalbahra, Tahsil - Jaithari, Distt. - Anuppur (M9203..P.), (Owner Of Vehicle No. Mp-65-Md-3809)

2 - Bajaj Allianz General Insurance Company Ltd. Through Branch Manager Bilaspur, Third Floor, Gurukripa Tower, Vyapar Vihar, Distt. Bilaspur (C.G.). (Owner Of Vehicle No. Mp-65-Md-3809)

... Respondents

For Appellants/Claimants	: Mr. Anil Kumar Jain, Advocate holding the brief of Dr. Sanjeet Sharma, Adv.
For respondent No.2/Insurance	: Mr. Sangeet Kushwaha, Advocate

Hon'ble Shri Justice Rakesh Mohan Pandey**Order on Board****22.01.2026**

1) Heard.

2) The appellants/claimants have filed this appeal for enhancement of compensation assailing an award passed by the learned First Additional



Motor Accidents Claims Tribunal, Manendragarh, District Korea (C.G.) in Claim Case No.38/2021 dated 12.12.2022 whereby, the learned Tribunal has granted compensation to the tune of Rs.7,42,600/- with interest @ 6% per annum on account of death of one Palle Singh.

- 3) Learned Tribunal while deciding the issue of contributory negligence and found negligence in ratio of 50:50 of both the riders of the motorbikes as there was head on collision and both the riders lost their lives and FIRs were registered against both the riders.
- 4) The facts in brief are that on 29.04.2019, deceased Palle Singh was going to Village Jethari on motorcycle bearing registration No.C.G.16/CD/0124 and when he reached near Village Khutatola main road, rider of motorcycle bearing registration No.MP65/MD/3809 by riding it rashly and negligently dashed the motorbike of the deceased Palle Singh, resultantly, both the riders sustained injuries. In the said accident, Palle Singh lost his life.
- 5) The widow and three minor children filed a claim case under Section 166 of the Motor Vehicles Act. They pleaded that at the time of accident, age of the deceased was 29 years and earning Rs.12,000/- as the deceased was a mason. They claimed a sum of Rs.43,36,000/-. The respondent No.1 owner of the vehicle was proceeded ex-parte.
- 6) The Insurance Company filed reply and denied averments made in the claim petition. A plea was taken that the deceased Palle Singh was riding



his motorbike rashly and negligently. An FIR was registered against him. It is also pleaded that the rider of the offending motorbike did not have valid and effective driving licence on the date of accident. Learned Tribunal framed issues and parties led evidence. A specific plea with regard to contributory negligence was taken.

- 7) Learned Tribunal decided this issue in affirmative and held that there was negligence on the part of riders of both the motorbikes to the extent of 50:50.
- 8) Learned Tribunal assessed compensation to the tune of Rs.12,85,200/- and deducted 50% and further, granted compensation of Rs.1,00,000/- on conventional heads and granted total sum of Rs.7,42,600/-.
- 9) Learned counsel appearing for the claimants would submit that the learned Tribunal committed an error of law while assessing the income of deceased Rs.6,000/- per month. He would further submit that in absence of evidence with regard to income, learned Tribunal should have applied minimum wages matrix. He would contend that the minimum wage admissible to an unskilled labourer in the month of April, 2019 was Rs.8,400/- and the learned Tribunal should have taken that figure. He would further contend that the learned Tribunal has not granted proper compensation for loss of consortium; loss of estate and funeral expenses. Mr. Jain would submit that the learned Tribunal committed an error of law while deciding the issue of contributory



negligence. He would contend that there is no evidence to the effect that the deceased Palle Singh was negligent while riding his motorbike. He would argue that on the basis of spot map and FIR registered against him, learned Tribunal arrived at conclusion that the deceased Palle Singh was negligent. He would further contend that the finding recorded by the learned Tribunal with regard to contributory negligence is erroneous. He would pray to enhance the compensation accordingly.

- 10) On the other hand, Mr. Kushwaha, learned counsel appearing for the respondent/Insurance Company would oppose the submissions made by Mr. Jain. He would submit that spot map Ex.A/3 would reveal that there was head on collision between two bikes and FIRs were registered against riders of both the motorbikes and therefore, the learned Tribunal determined that both the riders were equally responsible for the collision and learned Tribunal assessed 50% negligence of the deceased and granted compensation accordingly. He would further submit that the claimants failed to prove the income of deceased by leading cogent evidence. He would submit that the learned Tribunal has granted just and proper compensation.
- 11) The Hon'ble Supreme Court in the matter of ***Meera Devi and Another Vs. Himachal Pradesh Road Transport Corporation and Others***, reported in **2014 (4) SCC 511** while dealing with the issue of contributory negligence in para 10 held as under :-



“to prove the contributory negligence, there must be cogent evidence. In the instant case, there is no specific evidence to prove that the incident has taken place due to rash and negligent driving of the deceased scooterist. In absence of any cogent evidence to prove the plea of contributory negligence, the said doctrine of the common law cannot be applied in the present case. We are, thus of the view that the reasoning given by the High Court has no basis and the compensation awarded by the tribunal was just and reasonable in the facts and circumstances of the case.”

- 12) In the present case, the learned Tribunal decided the issue of contributory negligence against the claimants only on the basis of site plan and contention made by the Insurance company that an FIR was registered against the deceased Palle Singh. The Insurance Company failed to examine any witnesses to prove the factum of contributory negligence. As no evidence was led either by the owner of the offending vehicle or by the Insurance Company, in my opinion, learned Tribunal committed an error of law while deciding issue of contributory negligence against the claimants and the findings recorded in this regard are hereby set aside.
- 13) With regard to enhancement of compensation, learned Tribunal considered the income of deceased Rs.6,000/- per month which is certainly at lower side looking to the minimum wages matrix applicable in the State of Chhattisgarh at the relevant time. The minimum wage admissible to an unskilled labourer in the month of April, 2019 was Rs.8,400/- and the learned Tribunal should have taken that figure while computing income of the deceased. Learned Tribunal should have granted Rs.40,000/- to each claimants for loss of consortium;



Rs.15,000/- for loss of estate and Rs.15,000/- for funeral expenses but in the present case, learned Tribunal has awarded a fixed sum of Rs.1,00,000/-. Thus, the compensation requires recomputation and same is being revisited herein below:

Sr. No.	Heads	Compensation awarded by Tribunal	Compensation awarded by this Court
1.	Income	Rs.6000x12= Rs.72,000/-	Rs.8,400x12=Rs.1,00,800/-
2.	Future Prospect	40% of 72,000 = 28,800 72,000 +28,800 = 1,00,800	40% of 1,00,800 = 40,320 1,00,800 + 40,320=1,41,120
3.	Deduction	(-) 1/4 =Rs.25,200 1,00,800 – 25,200 = 75,600	(-) 1/4= 35,280 1,41,120 – 35,280 =1,05,840
4.	Multiplier	(x) 17 = Rs. 12,85,200/-	(x) 17 =Rs. 17,99,280/-
5.	Funeral expenses	Nil	Rs. 16,500/-
6.	Loss of Estate	Nil	Rs. 16,500/-
7.	Contributory negligence	50% of 12,85,200 = 6,42,600	No deduction
8.	Other heads- loss of Consortium (for appellants No.1 to 4)	Rs.1,00,000/-	Rs.44,000 x 4 = 1,76,000
9.	Total	Rs. 7,42,600/-	Rs. 20,08,280/-

- 14) Accordingly, the amount of compensation of Rs.7,42,600/- awarded by the Claims Tribunal is enhanced to Rs.20,08,280/-. Hence, after deducting the amount of Rs.7,42,600/-, the appellants are entitled for an



2026:CGHC:3863

-7-

additional amount of **Rs.12,65,680/-**. The additional amount of compensation shall carry interest @ 6% per annum from the date of application till the date of its realization. The rest of the terms and conditions of award shall remain intact.

- 15) Accordingly, this appeal is **allowed in part** and the impugned award is modified to the extent as indicated herein-above.

Sd/-
(Rakesh Mohan Pandey)
Judge

Rekha