2026:CGHC:13512

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NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MAC No. 1291 of 2018

- Branch Manager, The New India Insurace Co. Ltd., Branch Office Rama Trade Centre, 2nd Floor, Opposite Rajiv Plaza, Near Old Bus Stand, Bilaspur Tehsil & District Bilaspur, Chhattisgarh, Through Authorized Signatory For The New India Insurance Company Limited Bilaspur, Divisional Office, Opposite Rajiv Plaza, Near Old Bus Stand Road Bilaspur, Chhattisgarh.

... Appellant

versus

1. Naveen Kumar Sahu, S/o Sanich Ram, Aged About 26 Years, R/o Village Kosa, Police Station Mulmula, District Janjgir-Champa, Chhattisgarh **(Claimant).**
2. Akhtar Mahmood Aalam, S/o Mahammad Nazir Ahemad, Aged About 39 Years, R/o Village Sutri, Police Station Katghora, District Korba, Chhattisgrh **(Driver).**
3. Subodh Mehta S/o Shri Jairam Mehta R/o Upar Basti Katghora Korba, District- Korba, Chhattisgarh **(Owner).**

... Respondents

(Cause title taken from Case Information System)

For Appellant	:	Mr. B. N. Nande, Advocate.
For Respondent	:	None.

Hon'ble Shri Justice Amitendra Kishore Prasad

Order on Board

20/03/2026

1. The appellant/insurance company has filed this appeal under Section 173 of the Motor Vehicles Act, 1988 (for short "M.V. Act"), challenging the award dated 05.04.2018 (Annexure-A/1) passed by the learned 1st Upper Motor Accident Claims Tribunal, Bilaspur, District Bilaspur (C.G.) (for short "Claims Tribunal") in Claim Case No.255/2016, whereby the learned Claims Tribunal allowed the application filed under Section 166 of the Act, 1988 in part and

awarded total sum of Rs.5,87,067/-, as compensation in favour of the appellant/claimant on account of injuries sustained by the injured, Naveen Kumar Sahu.

2. An accident occurred on 31.01.2016 by rash and negligent driving of the offending vehicle Trailer bearing Registration No.CG-11-BC-7329 driven by respondent No.2/driver, which was owned by respondent No.3/owner and insured with the appellant/insurance company.

3. As per the pleadings, injured used to do a cloth business by hawking and used to earn around Rs.20,000/- per month. The claim application was resisted by the non-applicants on various grounds including insurance company taking plea of violation of terms and conditions of the insurance policy.

4. On the basis of above pleadings, learned Claims Tribunal framed as many as 6 issues and decided the same in favour of the respondent No.1/claimant and awarded the above stated compensation holding the monthly income of the deceased as Rs.5,860/-.

5. Learned counsel for the appellant/insurance company submits that doctor, who treated the injured has not been examined and as such the injuries which were sustained by the injured person could not be proved by the claimant by any document. This aspect of the matter has not been considered by the learned Claims Tribunal. He further submits that the permit of the vehicle was also not available, despite that, the appellant/insurance company has been held liable for compensation and the amount was also awarded on higher side without there being any documentary evidence in support of the same. Therefore, the impugned award may kindly be set aside.

6. I have heard learned counsel for the appellant and perused the material available on record.

7. Though the application under Order 5 Rule 20 of CPC for substitute mode of service to the respondent No.3 has been filed by the appellant insurance company, as the owner of the vehicle has not been served, however it appears from the grounds which have been adjudicated that appearance of respondent No.3/owner is not necessary.

8. Two grounds have been raised by the appellant insurance company, firstly that permit of the vehicle was not available, but the learned Tribunal did not consider the said aspect and wrongly decided Issue No.3 against the appellant Insurance company. However, from perusal of the finding given by the learned Trial Court, it appears that this aspect of the matter has not been proved by the insurance company, as no documentary evidence was produced by the appellant insurance company that whether the permit of the vehicle was available or not. The second ground which has been raised by the appellant insurance company is with regard to the quantum, as it has been raised that the evidence as well as the documents have not been looked into properly by the learned Claims Tribunal while awarding the sum on various heads and the amounts have been awarded on the higher side also. The treating doctor has also not been examined as such the injuries which were claimed could not be proved. This aspect of the of the matter has not been considered by the learned Claims Tribunal.

9. From perusal of the record, it appears that the claimant used to do the work of selling of clothes as hawker and as such his income nearly Rs.6,000/- was rightly considered the by the learned Claims Tribunal, as such the learned Tribunal has rightly held that there was a loss of income and rightly awarded on this head. The learned Claims Tribunal also considered the documents of the treatment and rightly awarded compensation in favour of the claimant. So far as the amount awarded on the other heads i.e. pain and suffering, nutritional diet and attendant also cannot be said to be on higher side instead meager amounts were awarded on these heads, as such the learned Claims

Tribunal has moderately awarded compensation in favour of the claimant. Thus, this Court does not find any illegality or perversity in the award passed by the learned Claims Tribunal.

10. Accordingly, the appeal is dismissed.

11. Interlocutory application(s), pending if any, also stands disposed of.

Sd/-
(Amitendra Kishore Prasad)
Judge

Deepti Jha