



2026:CGHC:9834



2026:CGHC:9834

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MAC No. 1526 of 2024

1 - Smt. Kevla Bai Rathiya W/o Late Domra Singh Rathiya Aged About 37 Years R/o Village Anjoripali, Bhaisma, Tehsil- Bhaisma, P.S. Urga, Distt.- Korba, C.G.

... **Petitioner(s)**

versus

1 - Gitesh Kumar Kanwar S/o Shri Aswani Kumar Kamwar Aged About 21 Years R/o Village Urga, P.S. Urga, Tehsil And Distt. Korba, C.G.
(Driver / Owner)

2 - United India Insurance Company Limited Through Branch Manager Branch Office Transport Nagar Korba Tehsil And District Korba, C.G.
(Insurer)

... **Respondent(s)**

For Petitioner(s)	:	Mr. Nitesh Sahu, Advocate holding brief of
	:	Mr. Akhilesh Kumar Advocate
For Respondent No.1	:	Mr. Chandrikaditya Pandey, Advocate
For Respondent No.2	:	Mr. Anil Kumar Gulati, Advocate

Hon'ble Shri Justice Rakesh Mohan Pandey

Judgment On Board

25.02.2026

1. The claimants have filed this appeal seeking enhancement of compensation, assailing the award dated 15.04.2024 passed by the learned Motor Accident Claims Tribunal, District Korba, in



Claim Case No. 96/2019, whereby the Tribunal has granted compensation to the tune of Rs. 2,87,714/- with interest @ 7% per annum on account of the death of Domara Singh Rathiya.

2. The facts of the case, in brief, are that on 07.05.2019, the motorcycle of the deceased was hit by offending motorcycle bearing Registration No. CG12 - AX - 4169. In the said accident, Domara Singh Rathiya sustained injuries and succumbed to death. The claimant, who is the wife of the deceased, filed a claim petition under Section 166 of the Motor Vehicles Act, wherein she pleaded that the deceased was aged about 42 years and was earning Rs.10,000/- per month, and claimed compensation to the tune of Rs.27,30,000/-.
3. The insurance company filed reply and denied averments made in the claim petition.
4. The Tribunal framed issues, parties led evidence and thereafter award was passed.
5. Learned counsel for the appellant/claimant submits that, though there was no evidence with regard to contributory negligence, the Tribunal deducted 50% of the compensation towards contributory negligence. He further submits that the Tribunal assessed the income of the deceased at Rs.4,000/- per month, which is on the lower side. He contends that, in the absence of cogent evidence, the Tribunal ought to have applied the minimum wage matrix. It is also submitted that the minimum wage admissible to an unskilled labourer in the month of May, 2019 was Rs.8,400/- per month. He



fairly submits that, under the conventional heads, the Tribunal has rightly assessed the amount of compensation. He, therefore, prays for enhancement of the compensation accordingly.

6. Mr. Anil Gulati, learned Advocate, opposes the submissions and contends that there was sufficient evidence with regard to contributory negligence. He further submits that the rider of the offending motorcycle failed to produce a valid driving licence before the Tribunal; therefore, the Tribunal exonerated the insurance company and fastened the liability upon the driver-cum-owner of the offending motorcycle. The learned Tribunal directed the insurance company to satisfy the award and recover the same from the driver-cum-owner of the offending motorcycle. He further contends that the claimant could not adduce clinching evidence to establish income of the deceased, therefore, the Tribunal assessed income of the deceased at Rs.4,000/- per month. It is submitted that the Tribunal has granted just and proper compensation and, therefore, the appeal deserves to be dismissed.
7. I have heard learned counsel for the parties and perused the record.
8. The deceased met with an accident on 07.05.2019. The insurance company, in its reply, took a specific plea of contributory negligence. The FIR (Ex. P-2) was lodged on 08.05.2019, wherein it is specifically stated that the rider of the offending vehicle was negligent. The crime detail form, however, indicates that the rider



of offending motor bike was riding his motorcycle on the wrong side of the road.

9. Kevla Bai Rathiya (AW-01) specifically stated that the rider of the offending vehicle was driving rashly and negligently, and in cross-examination, the witness remained consistent. Kripa Ram Yadav (AW-02), an independent witness, also deposed that the rider of the offending vehicle was negligent, and this witness remained firm during cross-examination.
10. Geetesh (NAW-01), the rider of the offending motorcycle, stated that the deceased lost control and fell down from his motorcycle. The Assistant Manager of the Insurance Company, in his evidence, did not depose anything regarding negligence either on the part of the deceased or the rider of the offending vehicle.
11. The claimant failed to produce driving licence of the deceased before the Tribunal; therefore, the learned Tribunal held the deceased to be negligent and decided the issue of contributory negligence holding riders of both motorcycles equally negligent in the ratio of 50:50. The finding recorded by the Tribunal appears to be proper, as the claimant failed to place the driving licence of the deceased on record. The rider of the offending vehicle categorically stated that the deceased lost control and fell down from the motorcycle and said piece of evidence remained uncontroverted. Thus, there was sufficient evidence to record a finding with regard to contributory negligence.
12. With regard to income, the Tribunal assessed the income of the



deceased at Rs.4,000/- per month, which is certainly on the lower side. In the absence of evidence, the Tribunal ought to have applied the minimum wage matrix. The minimum wage for an unskilled labourer in the month of May, 2019 was Rs.8,400/- per month, and this figure should have been taken into consideration by the Tribunal while determining the income of the deceased. Under other heads, the Tribunal has awarded just and proper compensation.

13. Thus, the compensation requires reconsideration to assess the income and the same is revisited hereinbelow :-

Sr. No.	Heads	Compensation awarded by Tribunal	Compensation awarded by this Court
1.	Annual Income	Rs.48,000/- (@Rs.4,000 pm)	Rs. 1,00,800/- (@Rs. 8,400 pm)
2.	Future Prospect	Rs. 12,000/- (@25%)	Rs. 25,200/- (@25%)
3.	Annual income after Deduction Towards Personal Expenses	Rs.30,000/- (@1/2)	Rs. 63,000/- (@1/2)
4.	Annual Income after Applying Multiplier	Rs. 4,20,000/- (@14)	Rs. 8,82,000/- (@14)
5.	Treatment of Deceased	Rs.71,428/-	Rs.71,428/-
6.	Loss of Consortium	Rs.48,000	Rs. 48,000/-
7.	Funeral Expenses	Rs.18,000/-	Rs.18,000/-
8.	Loss of Estate	Rs.18,000/-	Rs.18,000/-
Total		Rs.5,75,428/-	Rs.10,37,428/-

14. Since 50% deduction is required to be made on account of contributory negligence on the part of the deceased, the



compensation earlier determined by the Tribunal was

Rs.2,87,714/- (Rs.5,75,428 ÷ 2).

15. Accordingly, the compensation of **Rs.2,87,714/-** awarded by the Claims Tribunal is enhanced to **Rs.5,18,717/- (Rs.10,37,428 ÷ 2)**. Thus, the appellants shall be entitled to an additional compensation of **Rs.2,31,000/-**. The Insurance Company is directed to pay the additional compensation assessed hereinabove within a period of 60 days.
16. The insurer shall satisfy the award first and would be at liberty to recover the same from the driver/owner of the offending vehicle.
17. The remaining terms and conditions of the award shall remain intact.
18. Accordingly, the appeal is **allowed in part** and the impugned award is modified to the extent indicated herein-above.

Sd/-

(Rakesh Mohan Pandey)
JUDGE