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HIGH COURT OF CHHATTISGARH AT BILASPUR

MAC No. 1482 of 2015

Judgment reserved on 11.03.2026
Judgment pronounced on 19.03.2026

1 - Baisakhu Ram (Died & Deleted As Per Hon'ble Court Order Dated 10-10-2025) Through L.Rs.

1 (a) - Vijay Kumar Raut S/o Late Shri Baisakhu Ram Aged About 35 Years R/o Village Kartala Tehsil Paali, District - Korba Chhattisgarh

1 (b) - Kaushilya Bai D/o Late Shri Baisakhu Ram Aged About 39 Years R/o Village Chaitma, Tehsil Paali, District - Korba Chhattisgarh

2 - Smt. Ramkunwar Yadav W/o Baisakhu Yadav, Aged About 35 Years R/o Village Nayapara, Sirgitti, Bilaspur, Tahsil And District Bilaspur Chhattisgarh...........**Claimants,** **... Appellants**

versus

1 - Mohan Mahto S/o Prabhu Mahto, Through Sanjay Singh, S/o Gopal Singh, R/o Dipka Road, Baloda And Near Majhli Talab, Station Road, District Janjgir Champa Chhattisgarh....(Driver Of The Offending Tractor Bearing Registration No. C G 11 D A 4082),

2 - Sanjay Singh S/o Gopal Singh, R/o Dipka Road, Baloda And Near Majhli Talab, Station Road, District Janjgir Champa Chhattisgarh.......(Owner Of The Offending Tractor Bearing Registration No. C G 11 D A 4082)

3 - Branch Manager, The Oriental Insurance Company Limited, Champa, District Janjgir Champa Chhattisgarh...........(Insurer Of The Offending Tractor Bearing Registration No. C G 11 D A 4082) **... Respondent(s)**

For Appellants	:	Shri Balraj Gupta, Advocate.
For Respondents 1 & 2	:	None.
For Respondent 3	:	Smt. Swati Agrawal appears on behalf of Shri Pankaj Agrawal, Advocate.

(HON'BLE SHRI JUSTICE RADHAKISHAN AGRAWAL)

C A V Judgment

1. This appeal has been filed under Section 173 of the Motor Vehicles Act, 1988 (for short, the MV Act) by the appellants/claimants seeking enhancement of compensation of Rs.6,00,240/- awarded in MACT No.291/2014 vide award dated 08.10.2015 passed by the Motor Accident Claims Tribunal, Bilaspur (for short, 'the Tribunal). The parties to this appeal shall herein after be referred as per their description before the Court below.

2. As per claim application filed under Section 166 of the MV Act, on 05.01.2014 at 09:15 am, when the deceased Sanjay Yadav and others were going on a Tractor bearing registration No.CG/11/DA/4082 (in short, the offending vehicle) to village Batari, on account of rash and negligent driving by Non-applicant No.1/driver, it jumped near a turn, as a result of which, the deceased, who was sitting on the tractor, fallen down and his head was crushed by the said tractor. It is not disputed that at the time of accident, the offending vehicle was owned by Non-applicant No.2/Sanjay Singh and was insured with Non-applicant No.3 – The Oriental Insurance Company Limited.

3. On account of death of Sanjay Yadav, a claim application was filed by his legal representatives under Section 166 of the MV Act seeking compensation of Rs.27,60,000- under various heads, pleading inter alia, that he was aged 19 years at the time of accident and used to earn Rs.9,000/- per month by working under the contractor.

4. The claim application was resisted by the Non-applicant No.3 on various grounds including that there is violation of terms and conditions of the insurance policy whereas the Non-applicants No.1 & 2/driver and

owner remained ex parte.

5. Learned Claims Tribunal framed issues on the basis of pleadings and evidence and decided the same in favour of the appellant/claimant No.2 – Smt. Ramkunwar Yadav (mother of the deceased) in Claim Case and awarded amount of compensation of Rs.6,00.240/- along with interest @ 7.5% per annum from the date of award till its realisation and while exonerating Non-applicant No.3/insurer from its liability, fastened liability upon the Non-applicants No.1 & 2/ driver & owner of the offending vehicle finding that the offending vehicle was being plied in breach of policy of condition. However, the claim of applicant No.1 – Baisakhu Ram Yadav (father of the deceased) was dismissed by the learned Claims Tribunal.

6. Learned counsel for the appellants/claimants would submit that though liability is on the owner/Non-applicants No.1 & 2 of the offending vehicle, but at the time of accident, the offending vehicle was insured with the Non-applicant No.3/insurance company, therefore, the insurance company is liable to indemnify the compensation and if this Court comes to the conclusion that the Non-applicant No.3 is not liable, then in the facts and circumstances of the case, pay and recover may be ordered looking to the welfare and beneficial legislation of the provisions of the Motor Vehicles Act, 1988. He would further argue that the Tribunal erred in assessing monthly income at Rs.3,960/- on notional basis, which is on lower side and even if the provisions of minimum wages would apply on the date of accident, then he being an unskilled labourer could have easily earned Rs.5,163/- per month. He would further contends that the age of the deceased was 19 years and applicable multiplier would be 18 in place of 16, as used by the

Tribunal. He would also contend that the amounts awarded on other conventional heads are also on meager side. In support, he relied on the decisions of the Supreme Court rendered in the matters of *National Insurance Company Limited* vs. *Pranay Sethi* reported in (2017) 16 SCC 680, *Magma General Insurance Company Limited* vs. *Nanu Ram @ Chuhru Ram and others* reported in (2018) 18 SCC 130 and *Shivaraj vs Rajendra and another* reported in 2018 (10) SCC 432.

7. On the other hand, learned counsel appearing for the respondent 3/insurance company would submit that although the offending vehicle was insured with Non-applicant No.3/insurance company, but the deceased, who was sitting on the tractor, was travelling along with other persons, whereas the capacity of the tractor is only one person, i.e., driver, therefore, upon due and proper appreciation of the evidence led before it, the Tribunal has rightly held that the offending vehicle was being plied in breach of policy conditions, therefore, the insurance company was rightly exonerated. She placed reliance upon a judgment dated 31.08.2020 passed by the DB of this Court in Misc. Appeal (C) No.1238/2014 (*United India Insurance Company Limited* vs. *Lakhmi & others*). She would further submit that the deceased was 20 years old, i.e., below 40 years and was not permanent employee, therefore, loss of future prospects would be 40% in place of 50% as taken by the Tribunal.

8. I have heard learned counsel for the parties and perused the record of the Tribunal including the evidence adduced on record.

9. It is not disputed that deceased Sanjay Yadav has died in a vehicular accident. It is also not in dispute that at the time of accident, the offending vehicle was insured with the Non-applicant No.3/insurer.

10. As regards breach of policy conditions on the date of accident, the burden to prove the same lies on the insurance company. Non-applicant No.3/insurance company proved the same by examining one Surendra Kumar Agrawal as N.A.W.3 (1), who has stated that as per the policy, the seating capacity of the tractor is only one person (driver) and no other person is permitted to travel on it. Ex.N.A.3-1, the insurance policy also shows the seating capacity of one person, i.e., driver. In order to rebut the same, neither the driver nor owner of the offending vehicle tractor has been examined themselves nor any witness has been examined on their behalf and remained ex parte throughout the proceedings. Therefore, the Tribunal was of the view that although the offending vehicle tractor was insured for agricultural purpose, but on the date of accident, it was found to carrying passengers including the deceased and thus violated the conditions of the insurance policy. The view taken by the Tribunal is correct view based on the evidence and material available on record and it is neither perverse nor contrary to the record. Therefore, I hereby affirm the same.

11. Now I shall examine as to whether the compensation of Rs.6,00,240/- awarded by the Tribunal is just and proper compensation in the facts and circumstances of the present case.

12. Admittedly, in an vehicular accident that had taken place on 05.01.2014, deceased Sanjay Yadav has died and at the time of accident he was 20 years old and was working under a contractor, however, despite there being no evidence with respect to exact income of the deceased persons, the Claims Tribunal, on notional basis, assessed monthly income as Rs.3,960/- per month, which in my

considered opinion, is on very lower side. Considering the facts of the case, looking to his nature of work and as per prevalent minimum wages provisions, it can safely be held that the deceased could have easily earned Rs.5,163/- per month. Therefore, I propose to reassess the compensation by taking the monthly income of the deceased at Rs.5,163/- per month and Rs.61,956/- per annum. This apart, at the time of accident, the deceased was aged 20 years, as determined by the Tribunal and while assessing loss of future prospects, the Tribunal erred in adding 50% towards loss of future prospects, which is not in accordance with the case of Pranay Sethi (supra) wherein it was prescribed that for the below age of 40 years, the applicable percentage of future prospects would be 40% for the self-employed persons. Besides above, The amounts awarded under other conventional heads are also on lower side.

13. Taking guidance from the decisions of the Hon'ble Supreme Court in *Sarla Verma* vs. *Delhi Transport Corporation* reported in (2009) 6 SCC 121, Pranay Sethi and Magma General Insurance Company Limited (supra), this Court re-computes the compensation in the following manner :-

Sl. No.	Description	Amount in Rs.
1.	Income of the deceased @ Rs.5,163/- per month.	61,956/-
2.	40% of (1) above to be added towards future prospects	24,782/-
3.	Total annual income of the deceased	86,738/-
4.	Applicable deduction would be 50% as the deceased was unmarried.	43,369/-
5.	Multiplier of 18 applied to assess total annual income	7,80,642
6.	Funeral expenses	15,000/-

7.	Loss of Estate	15,000/-
8.	Loss of consortium	40,000/-
	Total compensation	**8,50,642/-**
	Award of the learned Tribunal. (-)	6,00,240/-
	Enhanced amount by this Court	**2,50,402/-**

14. Hence, the claimant/appellant No.2 – Smt. Ramkunwar Yadav is entitled for an additional amount of Rs.2,50,402/-. The additional amount shall carry interest as made by the Tribunal from the date of passing of award by the Tribunal till its realisation.

15. As regards the payment of compensation, admittedly, the offending vehicle was insured with the non-applicant No.3/Insurance Company. However, taking into consideration the fact that the Motor Vehicles Act is a beneficial legislation and the provisions of the Act having been enacted for the benefit of the victims of an accident, this Court is of the opinion that in the larger interest of the claimants and in order to achieve substantial justice, the view taken by the Hon'ble Supreme Court, in the matter of Shivaraj (surpa) reiterating the principles in the case of *Manuara Khatun and others* vs *Rajesh Kumar Singh and others* reported in *(2017) 4 SCC 796*, whereby the Hon'ble Supreme Court has applied the principle of pay and recover, which needs to be applied in this case.

16. In view of above and considering the facts and circumstance of the case, the fact that the offending vehicle was duly insured with non-applicant No.3/Insurance Company at the relevant time and keeping in view the benevolent provisions of the Act in the light of the decision of Hon'ble Supreme court in Shivaraj (supra), this Court is of the opinion that the Respondent No.3/Insurance Company is directed to pay the

entire amount of compensation to the claimant No.2 – Smt. Ramkunwar Yadav first and then recover the same from Respondents No.1 & 2, i.e., driver and owner of the offending vehicle, in accordance with law. Ordered accordingly.

17. In the result, the appeal filed by the claimants is allowed in part with modification in the impugned award to the above extent and rest of the conditions of the impugned award shall remain intact.

Sd/-

(Radhakishan Agrawal)
JUDGE

Anjani