



2026:CGHC:15200



NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MAC No. 1384 of 2016

Judgment Reserved on : 25/03/2026

Judgment Pronounced on : 02/04/2026

Smt. Shipra Babbar W/o Sanjay Babbar, Aged About 38 Years, R/o Plot No.07, B, Ashish Nagar, Rishali, Bhilai, Police Station Sector 06, Bhilai Nagar, Presetnly R/o M I G-167, Hudco, Bhilai, Police Station Sector-06, Bhilai Nagar, Tahsil and District Durg, ChhattisgarhClaimant,

--- Appellant

versus

1 - Kunjlal Dadsena S/o Tiharan Lal Dadsena, Aged About 28 Years R/o Dumarपाली, Police Station Basna, Tahsil and District Mahasamund, ChhattisgarhDriver of offending Vehicle Bearing No. C.G.-06-D-9586,

2 - Sheikh Hamid S/o Sheikh Mohar, Aged About 27 Years R/o Basna, Police Station Basna, Tahsil and District Mahasamund, ChhattisgarhOwner of Offending Vehicle Bearing No. C.G.-06-D-9586,

3 - Shriram General Insurance Company Limited, Registered and Head Office E-8, Ricco Industrial Area, Sitapura, Jaipur Rajasthan 303022, Through Branch Manager Branch Office, Ama Naka, Mahoba Bazar, Raipur, ChhattisgarhInsurer of Offending Vehicle Bearing No. C.G.-06-D-9586,

--- Respondents

AND

**MAC No. 1383 of 2016**

Shailesh Bhatiya S/o M.L.Bhatiya, Aged About 40 Years R/o M I G-167,
Hudco, Bhilai, Police Station Sector-06, Bhilai Nagar, Tahsil and District
Durg, ChhattisgarhClaimant,

---Appellant

Versus

1 - Kunjlal Dadsena S/o Tiharan Lal Dadsena, Aged About 28 Years
Registered And Head Office E-8, Ricco Industrial Area, Sitapura, Jaipur
Rajasthan 303022, Through Branch Manager Branch Office, Ama
Naka, Mahoba Bazar, Raipur, ChhattisgarhDriver of
Offending Vehicle Bearing No. C.G.-06-D-9586,

2 - Sheikh Hamid S/o Sheikh Mohar, Aged About 27 Years R/o Basna,
Police Station Basna, Tahsil And District Mahasamund,
ChhattisgarhOwner of Offending Vehicle Bearing No. C.G.-
06-D-9586,

3 - Shriram General Insurance Company Limited, Registered And Head
Office E-8, Ricco Industrial Area, Sitapura, Jaipur Rajasthan 303022,
Through Branch Manager Branch Office, Ama Naka, Mahoba Bazar,
Raipur, ChhattisgarhInsurer of offending Vehicle Bearing No.
C.G.-06-D-9586,

--- Respondents

For Appellants	:	Mr. Aditya Shrivastava, Advocate
For Respondent No.1 & 2	:	None
For Respondent No.3	:	Mr. Pankaj Agrawal, along with Ms. Swati Agrawal, Advocate

(Hon'ble Shri Justice Radhakishan Agrawal)

CAV Judgment

1. Since both the above appeals filed by the claimants arise out of
same accident that took place on 03.06.2013, they are being
heard together and disposed of by this common judgment.



2. These appeals are filed by the claimants against the award dated 30.03.2016 passed by the learned 6th Additional Motor Accident Claims Tribunal, District – Durg, C.G. (hereinafter referred to as “the Claims Tribunal”) in Claim Case No.20/2014 (in case of Appellant Smt. Shipra Babbar) awarding total compensation of Rs.1,54,336/- and in Claim Case No.22/2014 (in case of Appellant Shailesh Bhatia) awarding total compensation of Rs.1,11,381/- with interest @ 9% per annum from the date of application till its realization in favour of claimants while fastening liability on Non-applicant No.1 and 2 (owner and driver) to pay the compensation and exonerating Non-applicant No.3 (insurance company).
3. As per the averments made in the claim petitions, on 03.06.2013 the claimants/injured were going on a car from Bhilai to Durgapur, (Raurkela) and when they reached near Jampali (Pithoura), at that time, the driver (Non-Applicant No.1) of a truck bearing registration No.CG-06-D-9586 (hereinafter referred to as 'the offending vehicle') by driving the same in a rash and negligent manner, dashed the car of the claimants, as a result of which, claimant – Smt. Shipra Babbar sustained grievous injuries over her both the legs and claimant – Shailesh Bhatia sustained grievous injuries over his thigh of right leg. Thereafter, claimants were taken to the Hospital for treatment. At the time of accident, the said offending vehicle was owned by Non-Applicant No.2 and was insured with Non-applicant No.3.



4. On account of injuries sustained by the claimants, claim petition under Section 166 of the Motor Vehicles Act was filed by him seeking compensation to the tune of Rs.43,34,000/- (in MAC No.1384/2016) and Rs.20,13,000/- (in MAC No.1383/2016) under various heads, *inter alia*, stating that at the time of accident, Appellant – Smt. Shipra Babbar was aged about 38 years and was earning Rs.15,000/- per month by working as Assistant Professor, Kalyan College, Bhilai, whereas, Appellant – Shailesh Bhatia was aged about 40 years, earning Rs.7,500/- per month by working in Bhatia Furniture Shop. The learned Tribunal, after considering the evidence led by the parties, passed an award as mentioned in paragraph 2 of this judgment. Hence, these appeals have been filed by the claimants for enhancement of compensation on various heads.
5. Learned counsel for the claimants/injured submits that in both the appeals, the claimants have suffered grievous injuries. Claimant Smt. Shipra Babbar has suffered fractures on her both legs, i.e. in femur bone of right leg and tibia fibula bone fracture in left leg, and she was admitted in hospital for six days from 03.06.2013 to 08.06.2013 and for three months she was not able to perform her duties, whereas, claimant Shailesh Bhatia has suffered femur bone fracture on his right leg and he was admitted in hospital for 11 days from 03.06.2013 to 13.06.2013. He further submits that the amount awarded by the learned Tribunal to the claimants towards transportation expenses, special diet, attendant and pain



and suffering is on lower side and the same needs to be enhanced suitably. This apart, the amount awarded to the claimant Shailesh Bhatia for his loss of income for 3 months is also on lower side and the same needs to be enhanced.

6. Learned counsel for the Insurance Company/Non-Applicant No.3 while admitting that no separate appeal has been filed by them against the impugned award, submits that on the date of accident though the offending vehicle was insured with the insurance company but the same was being plied on the road on contravention with the terms and conditions of the insurance policy. He further submits that on the date of accident, the driver/owner of the offending vehicle did not possess valid fitness certificate. Therefore, the Tribunal was justified in exonerating the insurance company from liability to pay the compensation and fastening the liability upon the owner and driver of the offending vehicle. As such, the findings recorded by the Tribunal is just and proper and warrants no interference by this Court. He further submits that owner and driver of the offending vehicle are capable to pay the compensation, and further submitted that order of pay and recover is not applicable in every claim case.
7. Heard learned counsel for the parties and perused the record.
8. It is not in dispute that the both the claimants suffered grievous injuries over their body due to vehicular accident caused by driver of the offending vehicle which was being driven in a rash and negligent manner. Furthermore, on the date of accident, the



offending vehicle was insured with the Non-applicant No.3/Insurance Company (Respondent No.3 herein in both appeals) which was valid from 30.05.2013 to 29.05.2014 as per insurance policy (Ex.D-1). In this regard, Ramesh Sinha (NAW-1), Law Assistant has been examined by the Insurance Company who has stated that though the offending vehicle was insured at the time of accident, but on the date of accident i.e. 03.06.2013, the offending vehicle was not having any fitness certificate (wrongly mentioned as not having “valid permit” in place of “fitness certificate” in the findings of the Tribunal).

9. Thus, from the aforementioned evidence, it is quite vivid that there has been a breach of the policy conditions at the time of the accident. Therefore, in that view of the matter, this Court is of the view that the owner and driver of the offending vehicle are liable to pay compensation to the claimants, and the learned Claims Tribunal was justified in exonerating the Non-Applicant No.3/insurance company from its liability on the ground that on the date of the accident, the offending vehicle did not have a valid fitness certificate.

Enhancement of Compensation in MAC No.1384/2016

10. So far as the enhancement of the amount of compensation is concerned, the claimant in MAC No. 1384/2016, Smt. Shipra Babbar, sustained fractures in both legs, namely, a fracture of the femur bone in the right leg and fractures of the tibia and fibula



bones in the left leg. The said injuries are duly substantiated by medical bills and prescriptions exhibited as Ex. P-11, P-12, P-31 to P-43, and P-48. Accordingly, the total medical expenditure amounting to Rs. 38,256/-, as assessed by the learned Tribunal, is hereby affirmed. Further, considering the nature and severity of the injuries, it is reasonable to conclude that the claimant would have required a minimum period of three months for recovery. Thus, the loss of income for the said period, as assessed by the Tribunal at Rs. 60,180/-, is also affirmed. Moreover, the amount awarded towards loss of amenities and future treatment, i.e., Rs. 50,000/-, being just and reasonable, is likewise affirmed.

11. As regards the amount awarded by the Tribunal towards pain & suffering, a perusal of the record would reveal that indisputably due to rash and negligent driving of offending vehicle by driver/non-applicant No.1, claimant sustained grievous injuries over her both legs, further, she was admitted in hospital from 03.06.2013 to 08.06.2013, as is evident from discharge summary (Ex.P-30). During hospitalization and treatment, appellant must have suffered pain and suffering. However, the Tribunal, on its own, assessed and granted Rs.1,000/- towards pain and suffering, which in the considered opinion of this Court, is not just and proper. Therefore, considering the facts and circumstances of the case, the nature and extent of injuries suffered by the claimant, ends of justice would be served, if the claimant is granted an amount of Rs.50,000/- towards pain and suffering in



place of Rs.1,000/- as awarded by the Tribunal. Accordingly, the appellant is awarded Rs.50,000/- towards pain and suffering.

12. From perusal of the record, it also appears that the learned Tribunal has awarded meager amount under the heads of Transportation Expenses, Special Diet, Attendant Charges, which needs to be suitably enhanced. Taking into account the nature and extent of injuries sustained by the claimant in the said accident, I am inclined to grant a sum of Rs.4,000/- in place of Rs.2,000/- for transportation expenses, Rs.6,000/- in place of Rs.2,000/- towards special diet and Rs.6,000/- in place of Rs.900/- towards attendant. Ordered accordingly.

13. In this way, the claimant – Smt. Shipra Babbar is entitled for compensation in the following manner:-

S. No.	Heads	Awarded by this Court
1.	Medical Expenses (as assessed by the Tribunal)	Rs.38,256/-
2.	Transportation Expenses	Rs.4,000/-
3.	Special Diet	Rs.6,000/-
4.	Attendant Charge	Rs.6,000
5.	Loss of income of the claimant/ injured for 3 months Rs.20,060 x 3 (as awarded by the Tribunal)	Rs.60,180/-
6.	Pain & Suffering	Rs.50,000/-
7.	Loss of Amenities & future treatment (as assessed by the Tribunal)	Rs.50,000/-
	Total Compensation	Rs.2,14,436/-

14. Since the Tribunal has already awarded Rs.1,54,336/-, after deducting the same from Rs.2,14,436/-, the claimant/injured –



Smt. Shipra Babbar is entitled for an additional compensation of **Rs.60,100/-**, which shall carry interest as awarded by the Tribunal. Rest of the conditions of the impugned award shall remain intact.

Enhancement of Compensation in MAC No.1383/2016

15. So far as the enhancement of the amount of compensation is concerned, the claimant, Shailesh Bhatia in MAC No. 1383/2016, sustained a fracture in the femur bone of his right leg, which is evident from the medical bills and prescriptions duly exhibited as Ex. P-12, P-39, and P-45 to P-68. Accordingly, the total medical expenditure amounting to Rs. 41,231/, as assessed by the Tribunal, is hereby affirmed. Further, considering the nature of the injuries, it is reasonable to conclude that the claimant would have required at least three months for recovery. The loss of income for the said period has been assessed at Rs. 13,500/- by the Tribunal; however, in the considered opinion of this Court, the same is on the lower side. Therefore, having regard to the minimum wages applicable at the relevant point of time, a sum of Rs. 15,000/- (Rs. 5,000 x 3) is awarded towards loss of income for three months. Moreover, the amount awarded towards loss of amenities and future treatment, i.e., Rs. 50,000/-, is hereby affirmed.
16. As regards the amount awarded by the Tribunal towards pain & suffering, a perusal of the record would reveal that indisputably due to rash and negligent driving of offending vehicle by



driver/non-applicant No.1, claimant sustained grievous injuries over his right leg, further, he was admitted in hospital from 03.06.2013 to 13.06.2013, as is evident from discharge summary (Ex.P-38). During hospitalization and treatment, appellant/claimant must have suffered pain and suffering. However, the Tribunal, on its own, assessed and granted Rs.1,000/- towards pain and suffering, which in the considered opinion of this Court, is not just and proper. Therefore, considering the facts and circumstances of the case, the nature and extent of injuries suffered by the claimant, ends of justice would be served, if the claimant is granted an amount of Rs.40,000/- towards pain and suffering in place of Rs.1,000/- as awarded by the Tribunal. Accordingly, the appellant is awarded Rs.40,000/- towards pain and suffering.

17. From perusal of the record, it also appears that the learned Tribunal has awarded meager amount under the heads of Transportation Expenses, Special Diet, Attendant Charges, which needs to be suitably enhanced. Taking into account the nature and extent of injuries sustained by the claimant in the said accident, I am inclined to grant a sum of Rs.6,000/- in place of Rs.2,000/- for transportation expenses, Rs.6,000/- in place of Rs.2,000/- towards special diet and Rs.6,000/- in place of Rs.1,650/- towards attendant. Ordered accordingly.
18. In this way, the claimant – Shailesh Bhatia is entitled for compensation in the following manner:-



S. No.	Heads	Awarded by this Court
1.	Medical Expenses (as assessed by the Tribunal)	Rs.41,231/-
2.	Transportation Expenses	Rs.6,000/-
3.	Special Diet	Rs.6,000/-
4.	Attendant	Rs.6,000
5.	Loss of income of the claimant/ injured for 3 months Rs.5,000 x 3	Rs.15,000/-
6.	Pain & Suffering	Rs.40,000/-
7.	Loss of Amenities & future treatment (as assessed by the Tribunal)	Rs.50,000/-
	Total Compensation	Rs.1,64,231/-

19. Since the Tribunal has already awarded Rs.1,11,381/-, after deducting the same from Rs.1,64,231/-, the claimant/injured – Shailesh Bhatia is entitled for an additional compensation of **Rs.52,850/-**, which shall carry interest as awarded by the Tribunal. Rest of the conditions of the impugned award shall remain intact.

20. With regard to the payment of compensation, considering the facts and circumstances of the case, and further considering the fact that at the time of accident, the offending vehicle was insured with the Non-Applicant No.3/insurance company (Respondent No.3) and also taking support of judgment passed by Hon'ble Supreme Court in case of *Amrit Paul Singh and another v. Tata AIG General Insurance Company Limited and others* reported in (2018) 7 SCC 558, it would be appropriate to direct the Insurance Company to first deposit the entire amount of compensation



alongwith interest to the respective claimants within two months from the date of pronouncement of this judgment, and thereafter, recover the same from the owner and driver of offending vehicle in accordance with law. Ordered accordingly.

21. In the result, both the appeals filed by the claimants are allowed in part to the extent indicated herein above.

Sd/-
(Radhakishan Agrawal)
Judge

Prakash