2026:CGHC:12717

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

Reserved on 10.03.2026

Pronounced on 17.03.2026

MAC No.1566 of 2018

Shriram General Insurance Company Limited, Branch Office-E-8, I.P. Ricco Industrial Area, Sitapura, Jaipur (Rajasthan) 302022 Local Address : 4th Floor, Maruti Height, G.E. Road, Near Sky Automobile, Mahoba Bazaar, Raipur (Chhattisgarh)...........(**Insurer Of Truck No. C.G.-04-J.A./8804**)

--- Appellant

versus

1 - Smt. Savitri Kashyap W/o Late Mahesh Prasad Kashyap, Aged About 28 Years,

2 - Aayu Kashyap S/o Late Mahesh Prasad Kashyap, Aged About 08 Years,

3 - Smt. Savitri Kashyap W/o Late Laxmi Prasad Kashyap, Aged About 60 Years,

Respondent No.2 Minor represented through natural guardian mother respondent No.1 Smt. Savitri Kashyap, All R/o Mahamayapara, Ratanpur, Thana Ratanpur, District Bilaspur Chhattisgarh.............(**Claimants**)

4 - Moh. Muinuddin Khan S/o Moh. Habib Khan, Aged About 26 Years, R/o Satnam Nagar, Near Vinay Kirana Stores, Telibandha, Raipur (Chhattisgarh)...........(**Driver Of Truck No. C.G.-04-J.A./8804**)

5 - Moh. Habib Khan S/o Late Moh. Sade Khan, Aged About 54 Years, R/o Satnam Nagar, Near Vinay Kirana Stores, Telibandha, Raipur (Chhattigarh)...............(**Owner Of Truck No. C.G.-04-J.A./8804**)

--- Respondent(s)

MAC No.191 of 2019

1 - Smt. Savitri Kashyap Wd/o Late Mahesh Prasad Kashyap, Aged About 28 Years,

2 - Ayu Kashyap S/o Late Mahesh Prasad Kashyap Aged About 8 Years,

3 - Smt. Savitri Kashyap Wd/o Late Laxmi Prasad Kashyap, Aged About 60 Years

All R/o Mahamaya Para, Ratanpur, Police Station Ratanpur, District Bilaspur Chhattisgarh.

---**Appellants/Claimants**

Versus

1 - Mohd. Moienuddin Khan S/o Mohd. Habib Khan, Aged About 26 Years, R/o Satnam Nagar, Nearby Vinay Kirana Store, Telibandha, Raipur, Police Station Rajendra Nagar, District Raipur Chhattisgarh.

2 - Mohd. Habib Khan S/o Late Mohd. Sade Khan, R/o Satnam Nagar, Nearby Vinay Kirana Store, Telibandha, Raipur, Police Station Rajendra Nagar, District Raipur Chhattisgarh.

3 - Shriram General Insurance Company Limited, Through Manager, E-8, I.P. Ricco Industrial Area, Sitapur, Jaipur, Rajasthan 302022. Local Address - 4th Floor Maruti Height, G.E. Road, Nearby Sky Automobile Mahoba Bazar, Raipur Chhattisgarh.

--- **Respondents/Non-Applicants**

<u>In MAC No.1566 of 2018</u>

For Appellant	:	Shri Sourabh Sharma appears along with Shri Saurabh Gupta, Advocates
For Respondents No.1 to 3	:	Shri Qamrul Aziz, Advocate
		While none for others, though served

<u>In MAC No.191 of 2019</u>

For Appellants	:	Shri Qamrul Aziz, Advocate
For Respondent No.3	:	Shri Sourabh Sharma appears along with Shri Saurabh Gupta, Advocates
		While none for others, though served

Single Bench: Hon'ble Shri Sanjay S. Agrawal, J

C A V Order

1. Since both these appeals arise out of the common award, dated 18/05/2018 passed by the 5th Additional Motor Accident Claims Tribunal, Bilaspur (C.G.) in Motor Accident Claim Case No.664/2016, whereby, a sum of Rs.8,26,000/- has been awarded to the claimants with interest @ 6% per annum from the date of filing of the claim petition till its realization, while fastening the liability upon the Insurance Company, they are being disposed of by this common order. The parties shall be referred hereinafter as per their descriptions before the Claims Tribunal.

2. In MAC No.1566/2018, the non-applicant No.3-Shriram General Insurance Company Limited (hereinafter referred to as 'the Insurance Company') has questioned the award impugned for its exoneration as liability to indemnify the insured has been fastened upon it, while the appeal, being MAC No.191/2019, has been preferred by the claimants for enhancement of the amount of compensation.

3. Briefly stated the facts of the case are that on 07/07/2016 around 11.30 P.M., one Mahesh Prasad Kashyap, the husband of claimant No.1, namely, Smt. Savitri Kashyap, was coming by his motorcycle bearing Registration No.C.G.-10/EQ/6699 from the village Ratanpur and, as soon as he reached at Village Ochhinapara near the bypass road Ratanpur, he was dashed vehemently, owing to rash and negligent driving of the driver of the offending vehicle-Truck bearing Registration No.C.G.-04/J.A./8804, namely Mohd. Moinuddin Khan, owned by Mohd. Habib Khan, the non-applicant No.1 and non-applicant No.2 respectively, which was insured by the Insurance

Company-non-applicant No.3. As a result of the alleged incident, the deceased sustained serious injuries and died, which led to filing of the claim petition by the claimants under Section 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as 'the Act, 1988'), claiming total amount of compensation to the tune of Rs.26,76,000/- as, according to them, said Mahesh Prasad Kashyap, was 35 years old, and, was a Mason by profession and used to earn Rs.12,000/- per month.

4. The non-applicants No.1 and 2, i.e. the driver and owner of the vehicle in question were proceeded ex-parte, while the non-applicant No.3-Insurance Company in its written statement, has denied specifically the involvement of the alleged offending vehicle in the alleged incident and, contended further that since the driver of it was not holding a valid and effective driving license at the relevant point of time, therefore, the alleged offending vehicle was being driven in violation of the insurance policy, as such, no liability could be fastened upon it.

5. In support of the claim, the claimant No.1-Smt. Savitri Kashyap was examined herself, apart from other of her witnesses, while none was examined by the non-applicants and, the Claims Tribunal, upon considering the evidence led by the claimants, arrived at a conclusion that the alleged incident was occurred on the said fateful day owing to rash and negligent driving of the driver of the alleged offending vehicle and, held further, that since the claimants have failed to prove that the deceased was a Mason by profession and used to earn Rs.12,000/- per month and, therefore, by assessing his monthly income as Rs.4,500/-, awarded total amount of compensation to the tune of

Rs.8,26,000/- along with interest @ 6% per annum from the date of filing of the claim petition till its realization while fastening the liability upon the Insurance Company as the Insurance Company has failed to lead any evidence to establish its defence and, being aggrieved, the instant appeals have been preferred.

6. Learned counsel appearing for the appellant in appeal, being MAC No.1566/2018, submits that the finding of the Tribunal holding that the vehicle in question was involved in connection with the alleged incident is apparently contrary to the materials available on record. While inviting attention to the seizure memo (Ex.A-9), submits that since the vehicle in question was seized much after the occurrence of the alleged incident on 16/10/2016, therefore, it ought to have been held that the vehicle in question was not involved in connection with the alleged incident. It is contented further that since the driver of the alleged offending vehicle was not holding the valid and effective driving license, therefore, the Tribunal ought to have exonerated the Insurance Company on account of the breach of policy committed by the Insured, the non-applicant No.2-Mohd. Habib Khan. While, the counsel appearing for the claimants in their appeal, being MAC No.191/2019, submits that since the amount of compensation has not been awarded while taking note of the principles laid down by Hon'ble the Supreme Court in the matters of ***National Insurance Company Limited vs. Pranay Sethi and others,*** reported in ***(2017) 16 SCC 680***, ***Magma General Insurance Company Limited vs. Nanu Ram alias Chuhru Ram and others,*** reported in ***(2018) 18 SCC 130*** and ***Sarla Verma (Smt.) and others vs. Delhi Transport Corporation***

and another, reported in ***(2009) 6 SCC 121***, the amount of compensation is, therefore, liable to be enhanced.

7. I have heard learned counsel appearing for the parties and perused the entire record.

8. Insofar as the appeal, being MAC No.1566/2018, preferred by the Insurance Company is concerned, it appears that although the involvement of the vehicle in question has been denied, as the same was seized on 16/10/2016, i.e. after passing of considerable period of more than three months from the occurrence of the alleged incident, as also because the driver of the alleged offending vehicle was not holding the valid driving license, but, in order to establish the alleged fact, no evidence was, however, led by the Insurance Company, though the burden was heavily upon it to establish the same. In such circumstances and, in absence of any evidence led by the Insurance Company, the Tribunal has, therefore, not committed any illegality in fastening the liability upon it, so as to call for any interference in this appeal.

9. Now, insofar as the appeal preferred by the claimants is concerned, it appears that the just and proper compensation payable to the claimants has, however, not been awarded to them. According to the claimants, the deceased-Mahesh Prasad Kashyap was a Mason by profession and used to earn Rs.12,000/- per month, but in order to establish the said fact, no cogent and reliable evidence has been led by the claimants, so as to hold that he was a Mason by profession or his monthly income was Rs.12,000/-, as alleged by the claimants. Although, the claimants have failed to prove that he was working as a

Mason and used to earn Rs.12,000/- per month, but a bare perusal of the testimony of his wife, namely, Smt. Savitri Kashyap (AW-1), it appears that he was working as a labourer. In such circumstances, it would be appropriate to consider the deceased's income as of semi-skilled worker, as provided under the Minimum Wages Act, 1948. As the alleged incident was occurred on 07/07/2016, it would, therefore, be appropriate to consider his monthly income to the tune of Rs.6,107/-, yearly Rs.73,284/-. Since the deceased was 38 years old, as revealed from the postmortem report (Ex.A-5), therefore, while determining his actual income, an addition of 40% of it, i.e. Rs.29,314/- towards future prospects of his income is to be added, in the light of the principles laid down by Hon'ble the Supreme Court in the matter of ***Pranay Sethi*** (supra). It would, thus, comes to Rs.1,02,598/- (Rs.73,284/- + Rs.29,314/-) and, as the claimants are three in number and were dependent upon him, deduction of 1/3rd of it, i.e. Rs.34,200/- towards personal and living expenses of the deceased would be appropriate and, the yearly dependency of the claimants would, thus, comes to Rs.68,398/- (Rs.1,02,598/-**-** Rs.34,200/-). By applying the multiplier of 15, looking to the age of the deceased, in view of the principles laid down by Hon'ble the Supreme Court in the matter of ***Sarla Verma (Smt.)*** (supra), the total dependency, would, thus, comes to Rs.10,25,970/- (Rs.68,398 x 15), instead of Rs.7,56,000/- as awarded by the Claims Tribunal.

10. It is to be seen further that the consortium compensation of Rs.40,000/- has been awarded to the widow of the deceased only, apart from funeral expenses as well as the loss of estate @ Rs.15,000/- each, but, the mother (claimant No.3) and son (claimant

No.2) of the deceased are also entitled to consortium compensation at the rate of Rs.40,000/- each, in the light of the principles laid down by Hon'ble the Supreme Court in the matter of ***Magma General Insurance Company Limited vs. Nanu Ram alias Chuhru Ram and others*** (supra), with an enhancement of 10% every three years, as held in the said matter of ***Pranay Sethi*** (supra), therefore, the claimants are entitled to amount of compensation towards the conventional heads, as under :-

S. No.	Modes of Compensation	Amount (In Rs.)
1.	For loss of spousal consortium to widow of the deceased	Rs.40,000/- (already awarded by the Claims Tribunal)
2.	For loss of parental consortium to son of the deceased (@ 40,000/- with an enhancement of 10% in every three year, for nine years)	Rs. 52,000/-
3.	For loss of filial consortium to the mother of the deceased (@ 40,000/- with an enhancement of 10% in every three year, for nine years)	Rs. 52,000/-
4.	For funeral expenses	Rs.15,000/- (as already awarded by the Claims Tribunal)
5.	For loss of estate	Rs.15,000/- (as already awarded by the Claims Tribunal)
	T O T A L	Rs.1,74,000/-

11. Consequently, the claimants would be entitled to a total sum of Rs.11,99,970/- (Rs.10,25,970/- + Rs.1,74,000/-) along with interest @ 6% per annum from the date of filing of the claim petition, i.e. 22/11/2016, till the date of actual payment. Out of the said amount, the claimant No.1, namely, Smt. Savitri Kashyap (widow of the deceased),

would be entitled to a sum of Rs.4,10,000/-, the claimant No.2, namely, Aayu Kashyap (son of the deceased), would be entitled to a sum of Rs.4,00,000/-, while the claimant No.3, namely, Smt. Savitri Kashyap (mother of the deceased), would be entitled to a sum of Rs.3,89,970/- along with the said interest and, the same shall be disbursed to them as per the direction issued by the learned Claims Tribunal.

12. In view of the aforesaid background, the appeal, being MAC No.1566/2018 "**Shriram General Insurance Company Limited vs. Smt. Savitri Kashyap and others**", preferred by the Insurance Company is dismissed, while the appeal, being MAC No.191/2019 "**Smt. Savitri Kashyap and others vs. Mohd. Moienuddin Khan and others**", preferred by the claimants is hereby allowed in part to the extent indicated herein-above with the aforesaid directions. Rest of the observations as made by the Tribunal shall remain intact.

No order as to cost.

SD/-
(Sanjay S. Agrawal)
JUDGE

Tumane