



2026:CGHC:4260



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NAFR**HIGH COURT OF CHHATTISGARH AT BILASPUR****MAC No. 1630 of 2018**

1 - Smt. Chitrarekha W/o Late Dujram @ Jyoti Prakash Sahu Aged About 42 Years R/o Vidyavasini Ward No. 32, Danitola, Baigapara, Post Dhamtari, Tahsil And District- Dhamtari, Chhattisgarh., District : Dhamtari, Chhattisgarh

2 - Kamlesh Kumar S/o Late Dujram @ Jyoti Prakash Sahu Aged About 22 Years R/o Vidyavasini Ward No. 32, Danitola, Baigapara, Post Dhamtari, Tahsil And District- Dhamtari, Chhattisgarh., District : Dhamtari, Chhattisgarh

3 - Kumari Kavita D/o Late Dujram @ Jyoti Prakash Sahu Aged About 18 Years R/o Vidyavasini Ward No. 32, Danitola, Baigapara, Post Dhamtari, Tahsil And District- Dhamtari, Chhattisgarh., District : Dhamtari, Chhattisgarh

4 - Smt. Sevati Bai Sahu W/o Lakhan Lal Aged About 75 Years Caste Teli, R/o Vidyavasini Ward No. 32, Danitola, Baigapara, Post Dhamtari, Tahsil And District- Dhamtari, Chhattisgarh., District : Dhamtari, Chhattisgarh

5 - Lakhan Lal Sahu S/o Late Hagaru Ram Aged About 81 Years Caste Teli, R/o Vidyavasini Ward No. 32, Danitola, Baigapara, Post Dhamtari, Tahsil And District- Dhamtari, Chhattisgarh., District : Dhamtari, Chhattisgarh

... Appellants**versus**

1 - Loman Nishad S/o Pardeshi Nishad Caste Kenwat, R/o Village Tilkhour, Post And P.S. Arjunda, Tahsil And District- Balod, Chhattisgarh.....(Driver Of Motorcycle No. C.G. 04, Zj-1173), District : Balod, Chhattisgarh

2 - Yadram Nishad S/o Leela Ram Caste Kenwat, R/o Santoshi Nagar, Bangalipara, Raipur, Post Tikarapara, Tahsil And District



Chhattisgarh.....(Owner Of Motorcycle No. Cg04, Zj-1173)., District : Raipur, Chhattisgarh

3 - Branch Manager National Insurance Company Limited, Second Floor, Mobin Mahal, Shahid Samarak Bhawan, G.E. Road Raipur, Post Raipur, Tahsil And District- Raipur, Chhattisgarh...(Insurer Of Motorcycle No. Cg-04, Zj-1173)., District : Raipur, Chhattisgarh

... Respondent(s)

(Cause title is taken from Case Information System)

For Appellants	: Mr. Praveen Dhurandhar, Advocate
For Resp. No. 3	: Mr. Raj Awasthi, Advocate

(Hon'ble Shri Amitendra Kishore Prasad, Judge)

Order on Board

23/01/2026

1. This appeal has been filed under Section 173 of the Motor Vehicle Act, 1988, against the award dated 29.06.2018 passed by the learned Additional Motor Accident Claims Tribunal, Dhamtari, District - Dhamtari (C.G.), in Motor Accident Claim Case No. 51/2017 whereby an amount of Rs. 6,32,000/- has been awarded in the favour of the claimants of the deceased for their irreparable loss.
2. Brief facts of the case, giving rise to the present claim petition, are that the present appeal arises out of an award dated 29.06.2018 passed by the learned Motor Accident Claims Tribunal in a claim petition filed under Section 166 of the Motor Vehicles Act, 1988, whereby compensation of Rs. 6,32,000/- was awarded



to the claimants for the death of the deceased. The claim petition was filed by the appellants/claimants seeking compensation on account of the death of deceased Dujram @ Jyoti Prakash Sahu, who died as a result of a motor vehicular accident which occurred on 01.01.2017. It was pleaded in the claim petition that on the date of the incident, the deceased was riding his Scooty bearing Registration No. CG-05-AB-6457, proceeding cautiously on his left side on the road from Bhakhara towards Rampur. When he reached near Nahar Nali situated on Rampur-Bhakhara Road, the respondent No.1, while driving the motorcycle bearing Registration No. CG-04-ZJ-1173 from Rampur towards Bhakhara in a rash and negligent manner, dashed against the scooty of the deceased, causing a severe accident. As a result of the accident, the deceased sustained multiple grievous injuries all over his body and was immediately admitted to Bathena Hospital, Dhamtari for medical treatment. Despite treatment, the condition of the deceased deteriorated and he succumbed to the injuries during the course of treatment. The appellants, being the legal representatives of the deceased, filed a claim petition claiming compensation of Rs. 14,48,000/-, asserting that the accident occurred solely due to the rash and negligent driving of respondent No.1 and that the offending vehicle was insured with respondent No.3.

3. Respondent Nos.1 and 2, namely the driver and owner of the



offending motorcycle, filed their written statement denying the averments made in the claim petition and pleaded that the vehicle was duly insured with respondent No.3 at the relevant time. Respondent No.3/Insurance Company filed its written statement denying liability and raised a plea of breach of policy conditions, inter alia, on the ground that the driver of the offending vehicle was not holding a valid and effective driving licence at the time of the accident.

4. After appreciating the oral and documentary evidence on record, the learned Claims Tribunal passed the impugned award dated 29.06.2018, awarding a sum of Rs. 6,32,000/- as compensation and exonerated the Insurance Company from liability. Being aggrieved by the inadequacy of compensation and exoneration of the insurer, the present appeal has been preferred seeking enhancement.
5. Learned counsel for the appellants/claimants submits that the learned Claims Tribunal has committed a grave error in awarding grossly inadequate compensation, which does not reflect just and reasonable compensation as contemplated under the Motor Vehicles Act. It is further submitted that the learned Tribunal erred in exonerating the Insurance Company solely on the ground that the driving licence of the driver was not produced or seized, whereas no cogent evidence was led by the Insurance Company to establish breach of policy conditions. It is contended that the



burden to plead and prove breach squarely lay upon the insurer, which has not been discharged. Learned counsel contends that even assuming without admitting that there was any defect in the driving licence, the learned Tribunal ought to have applied the settled principle of “pay and recover”, especially when the insurance policy was admittedly valid and the deceased was a third party victim. It is further argued that the learned Tribunal erred in assessing the income of the deceased at a lower side. The claimants had pleaded an income of Rs. 6,000/- per month, which cannot be said to be excessive or extraordinary considering the nature of employment and prevailing wages at the relevant time. Learned counsel submits that the learned Tribunal has failed to award future prospects, which ought to have been granted at the rate of 50%, as per settled law, thereby causing serious prejudice to the claimants. It is also submitted that no amount has been awarded towards medical treatment expenses incurred during hospitalization, and the compensation awarded under the conventional heads such as loss of consortium, funeral expenses, and loss of estate is on the lower side. On the aforesaid grounds, learned counsel for the appellants prays that the impugned award dated 29.06.2018 be suitably enhanced and the Insurance Company be held liable to satisfy the award, in the interest of justice and equity

6. On the other hand, it has argued on behalf of the counsel for



respondent No. 3 that in the facts and circumstances of case, the compensation awarded by the Claims Tribunal is just and proper and requires no further enhancement.

7. This Court has heard learned counsel for the parties at length and perused the entire record of the Claims Tribunal with due care.
8. The occurrence of the accident dated 01.01.2017, involvement of the offending motorcycle, rash and negligent driving of respondent No.1, death of the deceased Dujram @ Jyoti Prakash Sahu, and the relationship of the appellants with the deceased are not in dispute. The findings of the learned Tribunal on negligence are affirmed and need no interference. The grievance of the appellants is essentially confined to the quantum of compensation awarded by the learned Claims Tribunal. On examination of the impugned award, this Court finds substance in the contention of the appellants that the compensation assessed by the Tribunal does not represent just and reasonable compensation as envisaged under the Motor Vehicles Act, 1988.
9. So far as the income of the deceased is concerned, the Tribunal assessed the same on the lower side. The accident occurred on 01.01.2017. As per the Minimum Wages Act, the minimum wages applicable during the relevant period i.e. from 01.10.2016 to 31.08.2017 were Rs. 6,206/- per month. In absence of any contrary evidence led by the respondents, the income of the deceased ought to have been assessed on the basis of minimum



wages. Accordingly, the monthly income of the deceased is reassessed at Rs. 6,206/-.

10. This Court further finds that the learned Tribunal has erred in not granting future prospects. The deceased was aged 42 years at the time of the accident. In view of the settled principles of law, the deceased falls in the category where 25% addition towards future prospects is required to be granted. Non-grant of future prospects has resulted in inadequacy of compensation, warranting interference by this Court.
11. Having determined the monthly income at Rs. 6,206/-, the annual income of the deceased would come to Rs. 74,472/- (Rs. 6,206 x 12). The deceased was self-employed and, therefore, in view of the principles laid down by the Hon'ble Supreme Court in **Pranay Sethi**, an addition of 25% towards future prospects is justified and required to be made to his established income. Accordingly, the annual income after adding 25% towards future prospects would come to Rs. 93,090/- (Rs. 74,472 + Rs. 18,618). The deceased was aged around 42 years at the time of the accident. Therefore, as per the guidelines laid down by the Hon'ble Supreme Court in the matter of **Sarla Verma (Smt.) & Ors. v. Delhi Transport Corporation & Anr.**, reported in **(2009) 6 SCC 121**, the appropriate multiplier applicable would be 14. Further, considering that there were four dependents on the deceased, a deduction of 1/4th is to be made towards personal and living expenses of the



deceased. Accordingly, the total amount under the head of loss of dependency comes to Rs. 9,77,452/-.

12. The claimants are further entitled for Rs. 18,000/- towards loss of estate (increase of 10% in every three years) and Rs. 18,000/- for funeral expenses (increase of 10% in every three years). As per **'Magma General Insurance Co. Ltd.**, the claimants are further entitled for Rs. (40,000/-X4+10%+10%) each (with increase of 10% in every three years) i.e. Rs. 1,92,000/- for consortium. Accordingly, the appellants/claimants would become entitled for total compensation of Rs. 12,05,452/- in the following manner:-

S.No.	Heads	Calculation
01	Towards loss of dependency	Rs. 9,77,452/-
02	Towards consortium along with with increase of 10% in every three years (40,000X4+10%+10%).	Rs. 1,92,000/-
03	Towards loss of estate along with increase of 10% in every three years.	Rs. 18,000/-
04	Towards Funeral Expenses along with increase of 10% in every three years.	Rs. 18,000/-
	Total	Rs. 12,05,452/-

13. Thus, the total compensation is recomputed as Rs. 12,05,452/-.

After deducting Rs. 6,32,000/- as awarded by the tribunal, the



enhancement would be **Rs. 5,73,452/-**.

14. In the result, the appeal is **partly allowed**. The claimants/appellants shall be entitled for the enhanced amount of **Rs. 5,73,452/-** in addition to what is already awarded by the claims Tribunal. The enhanced amount will carry interest @ 6% from the date of enhancement of the award till its realization. The impugned award stands modified to the above extent and rest of the conditions shall remain intact.

Sd/-

Shayna

(Amitendra Kishore Prasad)
JUDGE