



2025:CGHC:17189



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NAFR**HIGH COURT OF CHHATTISGARH AT BILASPUR****MAC No. 1653 of 2019**

1 - Janki Bai W/o Mayaram Baghel Aged About 34 Years R/o Village Pandripani, Police Station Bilaigarh, District Balodabazar - Bhatapara Chhattisgarh.

--- **Appellant**

versus

1 - Dharendra Kumar Sahu S/o Doulatram Sahu Aged About 17 Years (Juveline) Through Legal Representative Father - Doulatram Sahu S/o Faguram Sahu Aged About 39 Years R/o Pandrapani Police Station Bilaigarh, District Balodabazar - Bhatapara Chhattisgarh (Driver of Mahindra Tractor Bearing No. C.G. 11 A- 6656).

2 - Doulatram Sahu (Died) Through Lrs As Per Hon'ble Court Order Dated 03-10-2024. (Owner of Mahindra Tractor Bearing No. CG-11-A-6656).

2.1 - Rama Devi Wd/o. Late Daulatram Sahu Aged About 39 Years R/o. Village - Pandripani, Police Station - Bilaigarh, District - Balodabazar-Bhatapara (C.G.)

2.2 - Rani D/o. Late Daulatram Sahu Aged About 19 Years R/o. Village - Pandripani, Police Station - Bilaigarh, District - Balodabazar-Bhatapara (C.G.)

2.3 - Payal D/o. Late Daulatram Sahu Aged About 21 Years R/o. Village - Pandripani, Police Station - Bilaigarh, District - Balodabazar-Bhatapara (C.G.)



2.4 - Mahendra Sahu S/o. Late Daulatram Sahu Aged About 23 Years R/o. Village - Pandripani, Police Station - Bilaigarh, District - Balodabazar-Bhatapara (C.G.)

3 - Mayaram S/o Gangaram Aged About 45 Years R/o Village Khairjhiti Tahsil And Police Station Bilaigarh, District Balodabazar - Bhatapara Chhattisgarh.

--- **Respondents**

For Appellant	: Mr. Dev Ashish Biswas, Advocate.
For Respondents	
No. 1, 2.1, 2.2 and 2.3	: Mr. B.L. Sahu, Advocate.
For other Respondents	: None.

MAC No. 1828 of 2019

1 - (Deleted) Daulat Ram Sahu As Per Honble Court Order Dated 22-03-2025. (Owner of Mahindra Tractor Bearing No. CG-11-A-6656).

2 - Minor Dharendra Kumar S/o Daulatram Sahu Aged About 17 Years At The Time Of Accident , Now Major, Aged About 19 Years Now, Resident Of Village Pandripani, P.S. Bilaigarh, District Baloda Bazar-Bhatapara Chhattisgarh.

---**Appellants**

Versus

1 - Janaki Bai W/o Maya Ram Aged About 34 Years Resident Of Village Pandripani, P.S. Bilaigarh, District Baloda Bazar-Bhatapara Chhattisgarh.

2 - Maya Ram S/o Gangaram Aged About 45 Years Resident Of Village Khairjhiti, P.S. Bilaigarh, District Balodabazar Bhatapara, Chhattisgarh.

--- **Respondents**

For Appellants	: Mr. B.L. Sahu, Adv. on behalf of Mr. Santosh Sahu, Adv.
For Respondent No. 1	: Mr. Dev Ashish Biswas, Adv on behalf of Mr. Raj Bahadur Singh, Adv.
For other Respondents	: None.



Hon'ble Shri Justice Sanjay Kumar Jaiswal
Order on Board
(15.04.2025)

1. Since both appeals arise out of the same order dated 22.07.2019 passed by 2nd Additional Motor Accident Claims Tribunal, Balodabazar (C.G.), in Claim Case No. 74/2018, whereby a compensation of Rs.2,75,000/- with interest @ 9% per annum, in favour of the claimant has been awarded, they are being heard and disposed of by this common judgment.
2. Brief facts of the case were that on the date of the accident i.e. 10.11.2017 at about 4:30 pm, Sohit Kumar Baghel (now deceased) was coming home on his bicycle, at that time, in front of Community Hall, the driver/respondent No.1 herein of offending vehicle i.e. tractor trolley bearing registration No. CG-11-A-6656 owned by respondent No.2 herein drove the vehicle in a rash and negligent manner and caused accident to the bicycle of deceased Sohit Kumar, due to which Sohit Kumar fell on the ground and was admitted to the community health center, Bilaigarh for treatment, thereafter while he was being taken for specialized treatment, he died on the way. A report was made, on the basis of which a crime for the offence under Sections 279, 337 and 304-A of the IPC was registered. A claim application under Sections 166 and 140 of M.V. Act has been filed by the claimant before the Claims Tribunal to claim a compensation of Rs. 14,36,000/- stating therein that at the time of accident the deceased was aged about 12 years and was healthy and student of 5th standard and was brilliant in study who was a sole son of the claimant.
3. On the claim application of the claimant/appellant, the tribunal found that the accident caused by respondent No.1, the deceased suffered grievous injuries and died; respondent No.2/owner of the offending vehicle held liable



for compensation; considering the facts and circumstances of the case and also considering the fact that the deceased was aged about 12 years at the time of the accident, therefore income of the deceased cannot be presumed. Hence, considering the loss of income in future and dependency, the Tribunal awarded a total compensation of Rs. 2,75,000/- in the following manner:-

Heads	Compensation
Towards loss of income and dependency	Rs. 2,00,000/-
Towards funeral expenses	Rs. 25,000/-
Towards loss of love and affection	Rs. 50,000/-
Total	Rs. 2,75,000/-

Hence, MAC No. 1653 of 2019 has been filed by claimant for enhancement and MAC No.1828 of 2019 has been filed by driver and owner of offending vehicle for exoneration from liability.

MAC No. 1653 of 2019

4. Learned counsel for the appellant/claimant submits that the compensation awarded by the Tribunal is too meager amount considering the facts and circumstances of the case particularly the age of the deceased and the same deserves to be enhanced suitably as per law laid down by Hon'ble the Supreme Court in case of **Kishan Gopal vs. Lata and other (2014) 1 SCC 244**.
5. On the other hand, learned counsel appearing for the respondent supported the compensation amount of the award impugned and submitted that there is no need for enhancement.
6. I have heard learned counsel for the parties and perused the record of the Tribunal including award impugned.
7. In a motor accident claim case, what is important is that, the compensation to be awarded by the Courts/Tribunals should be just and proper compensation in the facts and



circumstances of the case. It should neither be a meager amount of compensation nor a Bonanza.

8. Now this Court shall examine as to whether the compensation awarded by the Tribunal is just and proper compensation in the given facts and circumstances of the case.
9. It would be relevant at this juncture to refer to the decision of the Hon'ble Supreme Court in the case of **Meena Devi v. Nunu Chand Mahto alias Nemchand Mahto and Others** reported in **(2023) 1 SCC 204** wherein in a case of death of a minor child aged about 12 years, the Supreme Court relying its judgments in the cases of **Kishan Gopal & Anr v. Lala & Ors, (2014) 1 SCC 244** and **Kurvan Ansari Alias Kurvan Ali and Anr v. Shyam Kishore Murmu and Anr, (2022) 1 SCC 317**, in paragraphs – 14, 15, 16 & 18 held as under:

“14. Recently in the case of Kurvan Ansari (supra), wherein a child aged about 7 years died in a road accident took place on 6.9.2004, this Court taking notional income as Rs. 25,000/-, applying the multiplier of 15, calculated the loss of dependency as Rs. 3,75,000/- and adding Rs. 55,000/- in conventional heads, awarded Rs. 4,70,000/-.

15. In view of the foregoing decisions, it is apparent that in the cases of child death, the notional income of Rs. 15,000/- as specified in the IIInd Schedule of M.V. Act has been enhanced on account of devaluation of money and value of rupee coming down from the date on which the IIInd Schedule of M.V. Act was introduced and the said notional income was treated as Rs. 30,000/- in the case of Kishan Gopal (supra) and Rs. 25,000/- in Kurvan Ansari (supra) in age group of 10 and 7 years respectively.

16. Thus applying the ratio of the said judgments, looking to the age of the child in the present case i.e. 12 years, the principles laid down in case of Kishan Gopal (supra) are aptly applicable to the facts of the present case. As per the ocular statement of the mother of the deceased, it is clear that deceased was a brilliant



student and studying in a private school. Therefore, accepting the notional earning Rs. 30,000/- including future prospect and applying the multiplier of 15 in view of the decision of this Court in Sarla Verma (supra), the loss of dependency comes to Rs. 4,50,000/- and if we add Rs. 50,000/- in conventional heads, then the total sum of compensation comes to Rs.5,00,000/-. As per the judgment of MACT, lump sum compensation of Rs. 1,50,000/- has been awarded, while the High Court enhanced it to Rs. 2,00,000/- up to the value of the Claim Petition. In our view, the said amount of compensation is not just and reasonable looking to the computation made hereinabove. Hence, we determine the total compensation as Rs. 5,00,000/- and on reducing the amount as awarded by the High Court i.e. Rs. 2,00,000/-, the enhanced amount comes to Rs. 3,00,000/-.

18. Accordingly, this appeal is allowed. The amount of compensation, as awarded by the High Court is enhanced by Rs. 3,00,000/-, in addition. The total amount of compensation would be Rs. 5,00,000/-. The enhanced amount shall carry interest @ 7% p.a. from the date of Claim Petition till realization. The due amount be paid by the respondent No. 4 – United India Insurance Company within a period of four weeks from today.”

10. In the case in hand, the deceased was also 12 years at the time of accident, applying the same principle and analogy in the present case also, this Court is inclined to enhance the compensation payable to the claimant herein in similar terms and quantifies the compensation at Rs.4,50,000/- towards loss of dependency and Rs.50,000/- under the conventional head. Thus, the appellant/claimant in the instant case shall be entitled for a total compensation of Rs.5,00,000/- in stead of Rs.2,75,000/- as awarded by the Tribunal.

11. Thus, a total compensation of Rs. 5,00,000/- is awarded. After deducting Rs. 2,75,000/- as awarded by the claims Tribunal, the enhancement would be **Rs.2,25,000/-**.

**MAC No. 1828 of 2019**

12. Learned counsel appearing on behalf of Daulat Ram Sahu, owner of the offending vehicle i.e. tractor-trolley, it has been argued that the deceased-boy was riding a bicycle without brakes due to which the accident happened due to his own negligence. Hence, he may be exonerated from its liability.
13. Learned counsel appearing for respondent No.1/claimant opposed the argument put forth by the counsel for the appellant and supported the impugned award to the extent of liability upon the appellant.
14. The offending vehicle was not insured. As a result of the death of owner Daulat Ram Sahu, Dharendra Kumar S/o Daulat Ram Sahu has already been included in the appeal as his legal representative.
15. The vehicle owner himself has stated in his written statement that on seeing the tractor coming, the child panicked and fell and died due to the injuries sustained in the fall. There is no pleading to the effect that the child was cycling without brakes. Daulat Ram Sahu himself has stated a different thing in the statement given before the tribunal. In the statement, he has stated that the child was riding the cycle fast and negligently and got crushed under the rear wheel of the tractor-trolley, which led to his death. Thus, there is a difference in the statement, evidence and argument of Daulat Ram Sahu himself. The claimant party said that Daulat Ram's son Dharendra was the driver of the vehicle at the time of the accident, whereas Daulat Ram Sahu has stated himself to be the driver in his Court statement. According to FIR Ex.P-2 registered on the day of the accident, the driver of the offending vehicle tractor-trolley, was Dharendra Kumar Sahu. Dharendra Kumar Sahu has also been prosecuted by the police as the driver.



The appellant witnesses Janaki Bai and Dukalu have stated that the accident happened due to the negligence of the driver Dhirendra, which cannot be denied. Rather, it is also confirmed by the charge sheet of the police. In this situation, the statement of the vehicle owner Daulatram Sahu that the child Sohrit Kumar was riding the cycle fast and carelessly and got stuck in the wheel behind the trolley is not acceptable. Because it is different from the pleadings, and the argument given in this appeal is also different from them. Thus, the argument of the vehicle owner that the accident happened due to the negligence or impatience of the deceased, Sohrit is not found acceptable.

16. In the result, **MAC No. 1653 of 2019** is **partly allowed** and **MAC No. 1828 of 2019** is hereby **dismissed**. The claimant would become entitled to **Rs. 2,25,000/-** in addition to what has already been awarded (Rs. 2,75,000/-) by the claims Tribunal. The enhanced amount shall 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.

17. The Registry is further directed to communicate the claimant in writing “the enhanced amount” in this appeal as against the award made by the Tribunal below. The said communication be made in Hindi Deonagri language and the help of paralegal workers may be availed with a co-ordination of Secretary, Legal Aid of the concerned area wherein the claimants resides.

Sd/-
(Sanjay Kumar Jaiswal)
Judge