



2026:CGHC:9272

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MAC No. 1988 of 2025

- 1** - Savita Chandrakar W/o Late Dileshwar Chandrakar Aged About 36 Years R/o Village- Jhopadi Potar Kholi, Ward No.- 65, Thana And Tahsil- Sirgitti, Distt.- Bilaspur (C.G.) Hall- Mukam- Uddhavnagar Bakipara Kormi, Near- Madan Kirana Store, Thana- Sirgitti Bilaspur, Tahsil And Distt.- Bilaspur (C.G.)
- 2** - Dilshan Chandrakar S/o Late Dileshwar Chandrakar Aged About 13 Years Minor Through Legal Guardian Mother Appellant No. 1 Savita Chandrakar, R/o Village- Jhopadi Potar Kholi, Ward No.- 65, Thana And Tahsil- Sirgitti, Distt.- Bilaspur (C.G.) Hall- Mukam- Uddhavnagar Bakipara Kormi, Near- Madan Kirana Store, Thana- Sirgitti Bilaspur, Tahsil And Distt.- Bilaspur (C.G.)
- 3** - Paras Chandrakar S/o Late Dileshwar Chandrakar Aged About 7 Years Minor Through Legal Guardian Mother Appellant No. 1 Savita Chandrakar, R/o Village- Jhopadi Potar Kholi, Ward No.- 65, Thana And Tahsil- Sirgitti, Distt.- Bilaspur (C.G.) Hall- Mukam- Uddhavnagar Bakipara Kormi, Near- Madan Kirana Store, Thana- Sirgitti Bilaspur, Tahsil And Distt.- Bilaspur (C.G.)
- 4** - Shiv Prasad Chandrakar S/o Jageshwar Chandrakar Aged About 64 Years R/o Village- Jhopadi Potar Kholi, Ward No.- 65, Thana And Tahsil- Sirgitti, Distt.- Bilaspur (C.G.) Hall- Mukam- Uddhavnagar Bakipara Kormi, Near- Madan Kirana Store, Thana- Sirgitti Bilaspur, Tahsil And Distt.- Bilaspur (C.G.)
- 5** - Son Bai W/o Shiv Prasad Chandrakar Aged About 58 Years R/o Village- Jhopadi Potar Kholi, Ward No.- 65, Thana And Tahsil- Sirgitti, Distt.- Bilaspur (C.G.) Hall- Mukam- Uddhavnagar Bakipara Kormi, Near- Madan Kirana Store, Thana- Sirgitti Bilaspur, Tahsil And Distt.- Bilaspur (C.G.)

... Appellant(s)

versus

1 - Nand Kumar Yadav S/o Vedram Yadav Aged About 40 Years R/o Village-Kohrauda Ward No.- 05, Thana- Masturi, Tahsil- Navagarh, District- Bemetara (C.G.) (Driver Of The Offending Vehicle Truck No. C.G. 10/ A.P./9614)

2 - Ajit Tiwari S/o Krishna Chand Tiwari R/o Phooleshwari Sharma House, Kashim Para Shankar Nagar, Thana- Torwa, Bilaspur, Tahsil And District- Bilaspur (C.G.) (Owner Of The Offending Vehicle Truck No. C.G. 10/a.P./9614)

3 - Through Branch Manager The Oriental Insurance Company Limited, Ram Trade Centre, 1st Floor, Near- Old Bus Stand, In Front Of Rajiv Plaza- Bilaspur, Tahsil And District- Bilaspur (C.G.) (Insurer Of The Offending Vehicle Truck No. C.G. 10/ A.P./9614)

... Respondent(s)

For Appellants	:	Shri A.L. Singraul, Advocate.
For Respondents No.1 & 2	:	None.
For Respondent No.3	:	Shri Raj Awasthi, Advocate.

Hon'ble Shri Justice Rakesh Mohan Pandey

Order on Board

23.02.2026

1. The appellants/ claimants have filed this appeal for enhancement of compensation assailing the judgment and award passed by the learned Sixth Motor Accident Claims Tribunal, Bilaspur, District Bilaspur in Claim Case No.31 of 2022 dated 20.1.2025 whereby the learned Tribunal passed an award to the tune of Rs.29,76,210/- alongwith interest @ 9% per annum on account of death of Dileshwar Chandrakar.
2. The facts, in brief, are that on 21.5.2021 when deceased Dileshwar Chandrakar alongwith his brother were returning from Dharsiva, District Baloda Bazar, near Masturi Darrighat Highway, the driver of the

offending Truck bearing registration No.C.G.10 A.P. 9614, by driving it rashly and negligently dashed the motorcycle resultantly, Dileshwar Chandrakar sustained grievous injuries and succumbed to death on 14.6.2021. The claimants, who are widow, two minor children and parents filed a claim case under Section 166 of the Motor Vehicles act wherein they pleaded that the deceased was a Contractor earning Rs.5,00,000/- per annum and was aged about 40 years at the time of accident. They claimed a sum of Rs.29,76,210/-. The Insurance Company filed its reply denying the averments made in the claim petition. Learned Tribunal framed issues, the parties led their evidence and thereafter, an award was passed.

3. Learned counsel for the appellants would submit that a xerox copy of the Income-tax return for the financial year 2017-18 was placed on record. He would submit that according to ITR, the gross income of the deceased was Rs.3,04,800/- and the learned Tribunal should have taken that figure while assessing the income of the deceased. He would further contend that the deceased remained hospitalized for 23 days. It is submitted that the learned Tribunal has honoured medical bills placed by the claimants before the learned Tribunal but failed to grant compensation towards pain and suffering. He would fairly submit that under other heads, the learned Tribunal has awarded just and proper compensation. He would pray to enhance the compensation. He has placed reliance on the judgments passed by the Hon'ble Supreme Court in the matter of **Sayar and Ors. vs. Ramkaran and Ors.**, passed in **SLP(C) No.24501 of 2025** and in the matter of **Nidhi Bhargava and Ors. vs. National Insurance Company Ltd. And Ors.**, passed in **Special Leave Petition (Civil) No.10664 of**

2019.

4. On the other hand, learned counsel for respondent No.3/ Insurance Company would oppose the submissions made by counsel for the appellants. He would submit that the claimants placed on record the xerox copy of ITR for the financial year 2017-18 and therefore, the same was not exhibited. He would submit that the learned Tribunal has rightly ignored the said document. He would further submit that the Tribunal failed to examine any officials from the Income-tax department to prove the ITR for the financial year 2017-18, therefore, the learned Tribunal treated the deceased a semiskilled labourer and assessed his income at Rs.10,890/- per month. He would submit that the learned Tribunal has granted just and proper compensation and the appeal deserves to be dismissed. He has placed reliance on the judgment passed by the Hon'ble Supreme Court in the matter of **New India Assurance Company Limited vs. Sonigra Juhi Uttamchand**, reported in **(2025) 3 SCC 23**, wherein it is held that the xerox copies of the income-tax returns are not admissible in evidence.
5. I have heard learned counsel for the parties and perused the documents present on record.
6. Admittedly, the deceased met with an accident on 21.5.2021 and died on 14.6.2021. The claimants pleaded that the income of the deceased was Rs.3,04,800/- and placed on record a xerox copy of income-tax return for the financial year 2017-18. The claimants failed to examine any officials from the Income-tax department, therefore, learned Tribunal treated the deceased as a semiskilled labourer and assessed his income at Rs.10,890/- per month.

7. In the matter of **Sayar** (supra), it has been held that the returns for the preceding year or years must be taken as a foundational benchmark, subject to careful judicial examination, recognizing that business profits are seldom static and often exhibit a progressive growth trajectory.

Para 12 is reproduced herein below:

“12. What flows from **Nidhi Bhargava** (supra) is that the Income Tax Returns filed after the accident/death can also be taken into consideration for calculation of income to award compensation. However, having due regard for the Tribunal’s well-placed doubts, in so far as returns filed for the relevant year, we take a different approach. In the instant case, it cannot be simply assumed that there is no profit accruing from the business of the deceased at the time of the accident. To adopt such a presumption would be contrary to the settled principles guiding the assessment of compensation. Rather, the returns for the preceding year or years must be taken as a foundational benchmark, subject to careful judicial examination, recognizing that business profits are seldom static and often exhibit a progressive growth trajectory. The exercise thus calls for a fair and reasonable assessment, grounded in available evidence, of the financial benefits that the deceased would have justifiably earned but for the untimely accident. In our considered view, in order to award just and fair compensation, the annual income of the deceased is re-assessed at Rs.1,00,000/- per annum. The claimant-appellant(s) are also entitled to compensation under other heads in accordance with the settled principles of law.

8. In the matter of **Nidhi Bhargava** (supra), the Hon’ble Supreme Court has held that an income tax return is a legally admissible document on the basis of which the income of the deceased can be assessed. Para 13 is reproduced herein below:

“13. The Income Tax Return is a legally admissible document on which the income assessment of the deceased could be made. This Court in *Malarvizhi v United India Insurance Co. Ltd.*, (2020) 4 SCC 228 affirmed that the determination of income must proceed on the basis of Income Tax Return(s), when available, being a statutory document. In *S Vishnu Ganga v Oriental Insurance Company Limited*, 2025 SCC OnLine SC 182, we opined:

‘11. ...It is no longer *res integra* that Income Tax Returns are reliable evidence to assess the income of a deceased, reference whereof can be made to *Amrit Bhanu Shali v. National Insurance Co. Ltd.*, (2012) 11 SCC 738 [Para 17]; *Kalpanaraj v. Tamil Nadu State Transport Corporation*, (2015) 2 SCC 764 [Para 7], and *K Ramya (supra)* [Para 14 of 2022 SCC OnLine SC 1338].’

(emphasis supplied)”

9. In the matter of **Sonigra Juhi** (*supra*), xerox copies of the Income Tax Returns of the financial years 2003 to 2007 were placed on record. Learned Tribunal as well as the High Court did not treat them as admissible evidence and assessed the income without placing reliance on the said xerox copies. The Hon’ble Supreme Court affirmed the view taken by the Tribunal and the High Court. The relevant paras 9 & 10 are reproduced herein below:

“9. A perusal of the impugned judgment would reveal the monthly income of the appellant's father as also the mother were fixed by the Tribunal and the same was not challenged by the respondent in appeal. The fact is that, the appellant had produced only the xerox copies of the Income Tax Returns of her parents, pertaining to the financial years 2003 to 2007. Indisputably, the Tribunal as also the High Court did not take them as admissible evidence and make assessment on their basis. At the same time without placing reliance on the xerox copies of the Income Tax Returns, the Tribunal fixed the monthly income

of her father as Rs.12,000/- and that of her mother as Rs.8,000/-. The impugned judgment would reveal that the monthly income thus fixed in the case of the parents were slightly enhanced by the High Court and it in the case her of father was re-fixed as Rs. 18,000/- and in case of her mother as Rs. 9,000/-.

10. As held by this Court in Sarla Verma's case (*supra*), in the matter of assessment of compensation, hypothetical considerations would be involved, but nevertheless such assessments should be objective. As noticed hereinbefore, the accident had occurred in the year 2007, and the father of the appellant, who claimed to had been running a jewellery shop, was aged only 48 years at the time of the accident. In the case of the mother of the appellant, she was aged only 38 years at the time of the accident and she was also not a mere housewife and claimed to had been running a jewellery shop. The Tribunal could not be said to have committed any mistake in not accepting the xerox copies of the tax returns and virtually adopted guess work relying on the attending circumstances to fix the monthly income of the parents of the appellant for calculation purpose.”

10. It is a well-settled principle of law that an income-tax return is a legally admissible document. The income of the deceased can be assessed based on ITR but at the same time, the claimants are required to submit a certified copy of the return or a copy issued by the Competent Authority before the learned Tribunal. The claimants may also examine any official of the income-tax department to prove the contents of the ITR.
11. In the present case, the claimants failed to submit a certified copy or a copy issued by the Competent Authority of ITR before the learned Tribunal. Therefore, the learned Tribunal ignored the said document

and assessed the income of the deceased by applying the minimum wages matrix. The approach adopted by the learned Tribunal appears to be proper.

12. It is not in dispute that the deceased remained hospitalized for 23 days. The learned Tribunal has granted a sum of Rs.6,65,000/- towards medical expenses incurred during treatment. As held by the Hon'ble Supreme Court in the matter of **Devendra Kumar Tripathi & Ors. vs. The Oriental Insurance Company Ltd. and Anr.** passed in **Special Leave Petition (C) No.2195 of 2024**, the claimants would be entitled to a sum of Rs.25,000/- towards pain and suffering. Under the other heads, the learned Tribunal has granted just and proper compensation. Accordingly, the submission made by counsel for the appellant with regard to income of the deceased based on ITR is hereby rejected. The claimants shall be entitled for a sum of Rs.25,000/- for pain and suffering, as the deceased remained hospitalized for 23 days. The Insurance Company is directed to deposit the enhanced amount of compensation as awarded by this Court within a period of 60 days from the date of receipt of a copy of this order. The additional amount of compensation shall carry interest @ 9% per annum from the date of filing of claim application before the Tribunal till its realization. Rest of the conditions of the impugned award shall remain intact.
13. Accordingly, the appeal is **partly allowed** and the impugned award is modified to the extent as indicated herein-above.

Sd/-

(Rakesh Mohan Pandey)
Judge