2026:CGHC:3896

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MAC No. 2207 of 2019

1 - New India Insurance Company Through Branch Manager, Office Banaras Road, Ambikapur, District Sarguja Chhattisgarh,

... Appellant

versus

1 - Dhaneshwar Prasad Prajapati S/o. Late Baijnath Prasad Aged About 43 Years Resident Of Village- Keshav Nagar, House No. 28, Tehsil Surajpur, District Surajpur Chhattisgarh,

2 - Smt. Janki Devi W/o. Dhaneshwar Prasad Prajapati Aged About 39 Years Resident Of Village- Keshav Nagar, House No. 28, Tehsil Surajpur, District Surajpur Chhattisgarh,

3 - Dayashankar Yadav S/o. Late Balgovind Yadav Aged About 47 Years Resident Village Gaurakhnathpur, Thana Jainagar, District Surajpur Chhattisgarh (Owner Of Vehicle),

4 - Bhola Vishwakarma S/o Jawahir Aged About 30 Years Resident Village Kashavnagar, Thana Vishrampur, District- Surajpur Chhattisgarh (Driver Of Vehicle),

... Respondent(s)

For Appellant	**:**	Shri Prasanjeet Dutta appears on behalf of Shri Sudhir Agrawal, Advocate.
For Respondent(s)	**:**	Shri Pawas Sharma appears on behalf of Shri Shakti Raj Sinha, Advocate.

Hon'ble Shri Sanjay K. Agrawal, J

Order On Board

22/01/2026:

1. This Appeal under Section 173 of the Motor Vehicles Act, 1988 (for short “Act of 1988”) has been preferred by the appellant/Insurance Company calling in question the legality, validity and correctness of the impugned award dated 16th September, 2019 passed by the 2nd Additional Motor Accident Claims Tribunal, Surajpur, District Surajpur in Claim Case No.80/2016 whereby an amount of Rs.7,10,400/- has been made in favour of the claimants as compensation and liability has been fastened on the Insurance Company.

2. During the pendency of the present Appeal, cross-objection has been preferred by the respondents No.1 & 2/claimants seeking enhancement of amount of compensation on account of death of 19 years old son.

3. Shri Dutta, learned counsel for the appellant would submit that the Claims Tribunal has erred in fastening liability on the Insurance Company as the offending vehicle was a goods vehicle which was being plied for carrying gratuitous passengers and against the terms of the policy and, therefore, the Insurance Company is not liable to pay compensation. Learned counsel for the appellant would further submit that the Insurance Policy was issued in the name of Bina Sharma whereas the vehicle was transferred in the name of Dayashankar vide Ex.-NA/3, but the necessary intimation was not given to the Insurance Company. Therefore, the Insurance Company would not be liable to indemnify the

compensation to the claimants and the Appeal deserves to be allowed. Reliance is placed in the matters of **Anu Bhanvara and others Vs. Iffco-Tokio General Insurance Co. Ltd. And others**[1], **Rikhi Ram and Another Vs. Sukhrania and Others**[2], **Manuara Khatun and Others Vs. Rajesh Kr. Singh and Ors.**[3].

4. On the other hand, Shri Pawas Sharma, learned counsel for the claimants would oppose the aforesaid submission and submit that only one person has died and the offending vehicle was not being used for carrying gratuitous passengers. Furthermore, plea regarding transfer of ownership has been taken by the Insurance Company, but it has not been proved that necessary intimation was given with regard to transfer of the offending vehicle and as such, the Insurance Company would be liable to pay compensation in the light of decision of the Hon'ble Supreme Court in the matter of **Firdaus Vs. Oriental Insurance Company Limited** {AIR 2017 SC 3572}.

5. Learned counsel for the claimants in support of cross-objection would further submit that compensation awarded by the Claims Tribunal be enhanced suitably.

6. Countering the aforesaid submission, learned counsel for the appellant/Insurance Company would submit that the compensation awarded by the Claims Tribunal is just and proper.

1 2019 ACJ 2802
2 2003 ACJ 534
3 AIR 2017 SC 1204

7. I have heard learned counsel for the parties at length and perused the record with utmost circumspection.

8. So far as first ground is concerned, the offending vehicle was being plied in terms of breach of Insurance policy, as the said vehicle was being used for carrying gratuitous passengers and the Claims Tribunal has recorded a finding relying upon the admission made by Anup Kerketta that the insurance policy is inclusive of cleaner also. The Claims Tribunal has further held that the insurance company has failed to establish breach of insurance policy, which in my considered opinion is correct finding of fact based on material available on record, which is neither perverse nor contrary to record.

9. So far as second ground that the insurance policy was issued in the name of Bina Sharma is concerned, admittedly, the insurance policy was issued in the name of Bina Sharma for the period 30.4.2014 to 29.4.2015 vide Ex.-NA/1, however, thereafter the offending vehicle was transferred in favour of Dayashankar Yadav vide Ex.-NA/3 on 8th July, 2014, but the Insurance Policy was not transferred in favour of said Dayashankar Yadav. However, the Insurance Company has not taken specific plea that no intimation was given by the said Bina Sharma to the Insurance Company. Therefore, there is breach of policy and the plea taken by the insurance company is only a vague plea. The Hon'ble Supreme Court in the matter of **Firdaus** (Supra) has clearly held that the insurance company is liable to pay compensation even if the

vehicle stood transferred to another person. In that view of the matter, this ground is also rejected.

10. So far as cross-objection raised by the claimants is concerned, admittedly, the deceased was an unskilled person, as apart from studies and agricultural work, the deceased also used to impart tuition. The Claims Tribunal has assessed the income of the deceased at Rs.4,500/- per month whereas wages of the unskilled person at the relevant point of time was Rs.5,787/-. As such in view of the judgment of the Hon'ble Supreme Court in the matter of **National Insurance Company Limited vs. Pranay Sethi And Others** reported in **(2017) 16 Supreme Court Cases 680,** 40% of the income for future prospects is required to be added and after adding 40% towards future prospects in view of the judgment of the Hon'ble Supreme Court in the matter of **Pranay Sethi** (Supra), income of the deceased is assessed at Rs.8102/- per month and yearly income is assessed at Rs.97,224/-. Towards loss of Consortium nothing was awarded by the Claims Tribunal. Furthermore, the Claims Tribunal has awarded a sum of Rs.15,000/- towards loss of estate and Rs.15,000/- towards loss funeral expenses, which deserve to be enhanced.

11. After hearing learned counsel for the parties and after going through the record; considering the facts and circumstances of the case, it would be appropriate to enhance award amount. As such, the claimants will be entitled for the following compensation as computed by this Court:-

Sr. No.	Heads	Compensation awarded by the Tribunal	Compensation awarded by this Court
1.	Income per month	Rs.4,500 (40% increase) Rs.6,300x12 = Rs.75,600/-	Rs.5787/- (40% increase) Rs.8102 x 12 = Rs.97,224/-
2.	Deduction (½) since the deceased was student	Rs.75,600 – 37,800 = Rs.37800/-	Rs.97,224 x ½ = Rs.48,612/-
3.	Multiplier applied (dependency)	Rs.37,800 x 18 = 6,80,400/-	Rs.48,612/- x 18 = Rs.8,75,016/-
4.	Loss of Consortium	Nil	Rs.44,000/- x 2 = Rs.88,000/-
5.	Loss of estate	Rs.15,000/-	Rs.16,500/-
6.	Loss of funeral expenses	Rs.15,000/-	Rs.16,500/-
	Total	Rs.7,10,400/-	Rs.9,96,016/-
	Enhanced amount		Rs.2,85,616/-

12. In view of the aforesaid analysis, the amount of compensation of **₹7,10,400/-** awarded by the Claims Tribunal is enhanced to **₹9,96,016/-**. Hence, after deducting the amount of **₹7,10,400/-**, the claimants/respondents No.1 & 2 are held to be entitled to an additional amount of **₹2,85,616/-**. The aforesaid amount is in addition to the amount already awarded by the Claims Tribunal. The appellant/Insurance Company is held liable to pay the aforesaid amount of compensation and shall deposit the amount of compensation within a period of three months from the date of receipt of 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. Resultantly, the Appeal preferred by the appellant/Insurance Company fails and is hereby dismissed and the cross-objection preferred by the claimants/respondents No.1 & 2 is allowed.

Sd/-
(Sanjay K. Agrawal)
Judge

Barve