



2026:CGHC:3058



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NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MAC No. 2303 of 2024

1. Shanti Marabi W/o Late Janesh Marabi Aged About 40 Years R/o Village And Post Sakalo, Bangalipara, P.S. Gandhinagar, Tahsil Ambikapur, District- Surguja (C.G.).

... Appellant(s)

versus

1. Deepak Choudhary S/o Late Dinesh Choudhari Aged About 42 Years Cast Kanwar, Occupation Vehcile Driver/ Owner R/o Sharaddha Chowk, Mission Colony, Ward No.22, P.S. Tilda-Neora, District- Raipur (C.G.).
2. Brach Manager, United India Insurance Company Limited, Paras Complex, In Front Of State Bank Of India, Gurudwara Station Road, Durg, District- Durg (C.G.). Branch Office United India Insurance Company Limited, Brahmaroad, Near Kumkum Hotel, Ambikapur, P.S. And Tahsil Ambikapur, District- Surguja (C.G.).

... Respondent(s)

For Appellant	:	Mr. C. Jayant K. Rao, Adv.
For Respondent No. 1	:	Mr. Shikhar Shukla, Adv.
For Respondent No. 2	:	Mr. Swapnil Thawani, Adv. on behalf of Mr. P.R. Patankar, Adv.

Hon'ble Shri Justice Rakesh Mohan Pandey

Judgment On Board

19.1.2026

- 1) This appeal has been preferred by the appellant/ claimant under Section 173 of Motor Vehicle Act, 1988 assailing the award passed by learned Principal Motor Accident Claims Tribunal,



Ambikapur, District Surguja in Claim Case No. 127/2023 dated 19.9.2024 whereby learned Tribunal has passed an award to the tune of Rs. 7,94,080/- with interest @ 7% on account of death of Raman Porte.

- 2)** Facts of the present case are that on 16.3.2023, Raman Porte was going to Sakalo Bazar as a pillion rider on motorcycle bearing registration No. CG-15-DR-9989, which was being driven by one Kamlesh. At about 10:35 pm, the offending vehicle – Truck bearing registration No. CG-04-LK-1753 being driven in rash and negligent manner dashed the motorcycle. In the accident, both riders sustained injuries and Raman Porte died on the spot. Claimant, who is the mother of deceased moved claim application claiming therein compensation to the tune of Rs. 20,34,400/-. She pleaded that the deceased was aged 17 years and was earning Rs. 12,000/- per month working as Vegetable Seller. Learned Tribunal framed issues ; parties led evidence and thereafter award impugned was passed.
- 3)** Learned counsel for the appellant submits that learned Tribunal has assessed the notional income of the deceased to be Rs. 7,000/- per month which is not in consonance with the minimum wage matrix applicable in the State of Chhattisgarh at the relevant time. He further submits that learned Tribunal wrongly deducted 30% dependency towards contributory negligence overlooking the fact that deceased was a pillion rider on the motorcycle which was



dashed by a truck and no negligence can be attributed to the deceased. Although, he fairly submits that learned Tribunal has awarded just and proper compensation under conventional heads. He prays to modify the award accordingly.

- 4) On the other hand, learned counsel appearing for the respondents would oppose. They submit that the deceased being a minor was riding the motorcycle, therefore learned Tribunal rightly deducted 30% dependency towards contributory negligence and awarded just and proper compensation. They further submit that this appeal deserves to be dismissed.
- 5) Heard learned counsel for the parties and perused the record with utmost circumspection.
- 6) From a careful perusal of record it transpires that the deceased was the pillion rider on motorcycle at the time of the incident and late Kamlesh was driving the motorcycle and it is crystal clear from the evidence that the deceased did not drive the vehicle at the time of the incident. The Hon'ble Supreme Court in the matter of **T.O. Anthony vs. Karvarnan and Others**¹ considered the law of composite and contributory negligence. The relevant paras 6 & 7 are reproduced herein below:

“6. 'Composite negligence' refers to the negligence on the part of two or more persons. Where a person is injured as a result of negligence on the part of two or more wrong doers, it is said that the person was injured on account of the composite negligence of those wrong-

1. (2008) 2 SCC 748



doers. In such a case, each wrong doer, is jointly and severally liable to the injured for payment of the entire damages and the injured person has the choice of proceeding against all or any of them. In such a case, the injured need not establish the extent of responsibility of each wrong-doer separately, nor is it necessary for the court to determine the extent of liability of each wrong-doer separately. On the other hand where a person suffers injury, partly due to the negligence on the part of another person or persons, and partly as a result of his own negligence, then the negligence of the part of the injured which contributed to the accident is referred to as his contributory negligence. Where the injured is guilty of some negligence, his claim for damages is not defeated merely by reason of the negligence on his part but the damages recoverable by him in respect of the injuries stands reduced in proportion to his contributory negligence.

7. Therefore, when two vehicles are involved in an accident, and one of the drivers claims compensation from the other driver alleging negligence, and the other driver denies negligence or claims that the injured claimant himself was negligent, then it becomes necessary to consider whether the injured claimant was negligent and if so, whether he was solely or partly responsible for the accident and the extent of his responsibility, that is his contributory negligence. Therefore where the injured is himself partly liable, the principle of 'composite negligence' will not apply nor can there be an automatic inference that the negligence was 50:50 as has been assumed in this case. The Tribunal ought to have examined the extent of contributory negligence of the appellant and thereby avoided confusion between composite negligence and contributory negligence. The High Court has failed to correct the said error."

- 7) As far as contributory negligence is concerned, learned Tribunal has stated that there were a total of two passengers riding on the motorcycle in which the deceased was sitting as a pillion rider. This Court has found that there is no evidence to show that the deceased was negligent; therefore, finding recorded by learned Tribunal with regard to contributory negligence is erroneous.



When a person suffers injury on account of negligence on the part of two or more wrongdoers, it is said to be composite negligence. Hence in the present case, the deceased is entitled to get full compensation under the head of composite negligence rather than contributory negligence. Hence, the tribunal has committed an error of law in deducting 30% of the award amount under the head of contributory negligence.

- 8) Thus, in light of the aforesaid discussion, this Court is re-computing the compensation as below:

Sr. No.	Heads	Compensation awarded by Tribunal	Compensation awarded by this Court
1.	Annual Income	Rs. 84,000/- (@Rs. 7,000 pm)	Rs. 1,16,400/- (@Rs. 9,7000 pm)
2.	Annual Income adding Future Prospect	Rs. 1,17,600/- (@40%)	Rs. 1,62,960/- (@40%)
3.	Annual income after Deduction towards personal expenses	Rs. 58,800/- (@1/2)	Rs. 81,480/- (@1/2)
4.	Annual Income after applying Multiplier	Rs. 10,58,400/- (@18)	Rs. 14,66,640/- (@18)
5.	Loss of Estate	Rs. 18,000/-	Rs. 18,000/-
6.	Funeral expenses	Rs. 18,000/-	Rs. 18,000/-
7.	Loss of Consortium	Rs. 40,000/-	Rs. 40,000/-
8.	Loss of income + Conventional heads	Rs. 12,44,000/-	Rs. 15,42,640/-
9.	Total after deducting contributory negligence	Rs. 7,94,080/- (@30%)	Rs. 15,42,640/- (NIL deduction)
	GRAND TOTAL	Rs. 7,94,080/-	Rs. 15,42,640/-



- 9) Accordingly, the amount of compensation of **Rs. 7,94,080/-** awarded by the Claims Tribunal is enhanced to **Rs. 15,42,640/-**. Hence, the appellants are entitled for an additional amount of **Rs. 7,48,560/-**. The Insurance Company is directed to make payment of additional compensation assessed herein-above within period of 60 days. Rest of the terms of the award shall remain intact.
- 10) Accordingly, the appeal is **allowed in part** and the impugned award is modified to the extent as indicated herein-above.

Sd/-
(Rakesh Mohan Pandey)
JUDGE

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