



CGHC010449602024



2026:CGHC:37713

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**MAC No. 62 of 2025**

Bajaj Allianz General Insurance Co. Ltd. Through Branch Manager 3rd Floor In fornt Of Gurukripa Tower Near ICICI Bank Vyapar Vihar Bilaspur P.S. Tarbahar Bilaspur Post Tehsil And District - Bilaspur (C.G.) (Insurer)

...Appellant**versus**

- 1** - Bhojram Mahant S/o Chamradas Mahant Aged About 50 Years R/o Village And Post Jumera P.S. Tahsil Kharsiya District - Raigarh (C.G.) (Claimant)
- 2** - Indarmati Mahant W/o Bhojram Mahant Aged About 48 Years R/o Village And Post Jumera P.S. Tahsil Kharsiya District - Raigarh (C.G.) (Claimant)
- 3** - Bhuvaneshwari Mahant D/o Bhojram Mahant Aged About 20 Years R/o Village And Post Jumera P.S. Tahsil Kharsiya District - Raigarh (C.G.) (Claimant)
- 4** - Yashudas Mahant S/o Bhojram Mahant Aged About 19 Years R/o Village And Post Jumera P.S. Tahsil Kharsiya District - Raigarh (C.G.) (Claimant)
- 5** - Satyanarayan Chouhan S/o Bholaram Chouhan Aged About 35 Years R/o House No. 56 Sidar Para Sahaspur Kantahardi Tahsil Sarangarh P.S. Kotara Road District - Raigarh (C.G.) (Driver)



6 - Mohd. Ijajuddin Ali S/o Hamid Aged About 32 Years R/o Ward No. 31, Mouhadapara P.S. Jutemill District - Raigarh (C.G.) (Owner)

... Respondent(s)

For Appellant(s) : Mr. Ashutosh Rathore, Adv.

For Respondents No.1 : Mr. Anand Kesharwani, Advocate

Hon'ble Shri Justice Sanjay Kumar Jaiswal

Judgment on Board

(21.08.2026)

1. This appeal under Section 173 of the Motor Vehicles Act, 1988 has been preferred by the appellant-Insurance Company calling in question the legality and correctness of the award dated 20.09.2024 passed by the 8th Additional Motor Accident Claims Tribunal, Bilaspur, in Claim Case No.611/2023, whereby the Tribunal has awarded a total compensation of Rs.22,35,936/- on account of the death of Poonam Das Mahant, who succumbed to the injuries sustained in a motor vehicle accident that occurred on 06.03.2023.
2. Learned counsel appearing for the appellant-Insurance Company, at the outset, submits that the Tribunal has erred in not recording a finding of contributory negligence on the part of the deceased, Poonam Das Mahant. It is contended that an eye-witness has been examined who has supported the case and, admittedly, two vehicles were involved in the collision. He further submits that the material available on record clearly establishes contributory negligence on the part of the deceased, which has been completely overlooked by the Tribunal. It is next contended that, since the deceased was unmarried, the Tribunal ought to have deducted 50% of



the income towards personal and living expenses, instead of deducting one-third thereof. On these grounds, learned counsel prays for modification of the impugned award.

3. Per contra, learned counsel appearing for respondent No.1 submits that, after due investigation, the police filed a charge-sheet against the driver of the offending vehicle and there is no evidence on record to establish any contributory negligence on the part of the deceased. It is further submitted that the compensation awarded by the Tribunal is just and proper and does not call for any interference by this Court. Accordingly, dismissal of the appeal is prayed for.
4. Heard learned counsel for the parties and perused the record.
5. So far as the plea of contributory negligence is concerned, from the evidence available on record, it is evident that, after investigation, the police filed a charge-sheet against the driver of the offending vehicle. Though the eye-witness has supported the occurrence, it is significant to note that the owner and driver of the offending vehicle proceeded ex parte at the stage of non-applicant evidence and did not adduce any evidence whatsoever to rebut the testimony of the eye-witness or to establish that the deceased was, in any manner, responsible for the occurrence. Respondent No.5, being the driver of the offending vehicle and the person best placed to explain the manner in which the accident occurred, also did not enter the witness box. In the absence of any cogent and reliable evidence demonstrating negligence on the part of the deceased, the mere fact that two vehicles were involved in the accident cannot, by itself, be a ground to infer contributory negligence. Hence, this Court finds no error or perversity in the finding recorded by the Tribunal that there was no contributory negligence on the part of the deceased.



The contention raised by the appellant–Insurance Company in this regard is, accordingly, rejected.

6. As regards the deduction towards personal and living expenses, it is not in dispute that the deceased Poonam Das Mahant was 23 years of age and unmarried at the time of the accident. In terms of the principles laid down by the Hon'ble Supreme Court in **National Insurance Company Ltd. v. Pranay Sethi, (2017) 16 SCC 680**, read with the settled principles governing assessment of compensation in the case of an unmarried deceased, 50% of the income is liable to be deducted towards personal and living expenses. The Tribunal, however, deducted one-third of the income towards personal expenses. The said deduction, therefore, cannot be sustained and is accordingly modified from one-third to one-half.
7. There are four claimants, namely, the parents and two siblings of the deceased. The accident occurred on 06.03.2023. The compensation payable to the claimants is recalculated as under:

Sl. No.	Heads	Compensation awarded by the Tribunal	Compensation awarded by this Court
1	Income	9,960x12 =119520	9,960x12 =119520
2.	Future prospects	(+)40% (i.e.47808) = 167328	(+)40% (i.e.47808) = 167328
3.	Deduction	(-) 1/3 (i.e. 55776) = 111552	(-)1/2 = 83664
4.	Multiplier	(x) 18 = 2007936	(x) 18 = 15,05,962
5.	Funeral Expenses	18,000	18,000
6.	Loss of Estate	18,000	18,000
7.	Consortium	1,92,000	1,92,000
	Total	Rs. 22,35,936/-	Rs. 17,33,952/-



8. In view of the aforesaid analysis, the claimants shall be entitled to a total compensation of Rs.**17,33,952/-** in place of Rs.22,35,936/- as awarded by the Claims Tribunal. The remaining terms and conditions of the impugned award shall remain unaltered.
9. Consequently, the appeal of the insurance company is **partly allowed** and the impugned award is modified to the extent as indicated herein-above.
10. The Registry is directed to communicate the claimants in writing “the modified amount” passed in this appeal as against the award made by the concerned Tribunal. 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 reside.

Sd/-
(Sanjay Kumar Jaiswal)
Judge

Khatai