



CGHC010068632023

2026:CGHC:44085

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MAC No. 297 of 2023

1 - Lakhan Singh Baghel S/o Late Bhakla Singh Baghel Aged About 42 Years R/o Village - Bhilai - 03, World Bank Colony, Charaunda Bhilai, Police Station - Bhilai, Tahsil Patan, District - Durg (C.G.)

2 - Laxmin Bai W/o Lakhan Singh Baghel Aged About 39 Years R/o Village - Bhilai-03, World Bank Colony, Charaunda, Bhilai, Police Station - Bhilai, Tahsil - Patan, District - Durg (C.G.)

... Appellant(s)

versus

1 - Shivnarayan Vishvakarma S/o Mangal Wisvakarma Aged About 27 Years R/o Village Chacheriya, Ward No. 05, Post - Ketar, Police Station - Bhavnathpur, Tahsil - Baligarh, District - Garhwa, Ketar (Jharkhand) (Driver Of The Vehicle Trailer No. - NL-01-N-8016)

2 - Mehta Transport Logistic Transport Private Limited R/o - T. C. P. Get, Kohima (Nagaland) Pin No. - 797001, (Owner Of The Vehicle Trailer No. NL-01-N-8016)

3 - Branch Manager New India Insurance Company Limited, Branch Office - Rama Trade Centre, 2nd Floor, In Front Of Rajiv Plaza, Old Bus Stand, Police Station - Civil Line, Tahsil And District - Bilaspur (C.G.) (Insurer Of The Vehicle Trailer No. - NL-01-N-8016)

... Respondent(s)

For Appellants	:	Mr. Anand Kesharwani, Advocate
For Respondent	:	Mr. Priyanshu Yadav, Adv., on behalf of
No.1		Mr. Vikash Pandey, Advocate
For Respondent	:	Mr. Azad Siddiqui, Advocate
No.3		

Hon'ble Shri Justice Sanjay Kumar Jaiswal

Order on Board

(12.10.2026)

1. This appeal under Section 173 of the Motor Vehicles Act, 1988 has been preferred by the appellants/claimants seeking enhancement of the amount of compensation, challenging the impugned award dated 24.11.2022, passed by the 6th Additional Motor Accident Claims Tribunal, Bilaspur (CG), in Claim Case No.548/2019, whereby the Claims Tribunal assessed the total compensation at ₹11,70,680/- and, after deducting 25% towards contributory negligence attributed to the deceased, Vivek Baghel, who died in a motor accident on 08.04.2019, awarded a sum of ₹8,78,010/- in favour of the claimants.
2. Learned counsel appearing for the appellants/claimants submits that the Tribunal has erroneously attributed 25% contributory negligence to the deceased, Vivek Baghel, who was riding the motorcycle, despite there being no evidence to substantiate such a finding. It is further submitted that the eyewitness, Kamlesh Kumar, who was travelling as a pillion rider on the motorcycle, has supported the case of the

claimants, which is also corroborated by the charge-sheet. Therefore, learned counsel prays that the finding of the Tribunal attributing 25% contributory negligence to the deceased be set aside.

3. Learned counsel for the appellants/claimants further submits that the Tribunal has committed a manifest error in assessing the monthly income of the deceased at ₹7,200/-, which is even lower than the minimum wages payable to an unskilled labourer at the relevant time. It is also contended that the amount awarded towards loss of consortium is inadequate and requires enhancement. Accordingly, learned counsel prays that the appeal be allowed and the compensation awarded by the Tribunal be suitably enhanced in accordance with law.
4. Per contra, learned counsel appearing for respondent No. 3/Insurance Company opposes the submissions made on behalf of the appellants and submits that the FIR and the statement of the eyewitness, Kamlesh Kumar, establish that three persons were travelling on the motorcycle, thereby exceeding its permitted seating capacity, and that they were returning after celebrating a birthday party. It is further submitted that the persons travelling on the motorcycle were under the influence of alcohol and that Kamlesh Kumar has admitted that the deceased, Vivek Baghel, had the last opportunity to avoid the accident. Therefore, the finding

recorded by the Tribunal attributing 25% contributory negligence to the deceased is justified and does not warrant any interference by this Court. Learned counsel further submits that, considering the facts and circumstances of the case, the compensation awarded by the Tribunal is just and proper and does not call for any enhancement.

5. Learned counsel appearing for respondent No.1 also submits that the award passed by the Tribunal is just and proper and does not warrant any interference by this Court.
6. Heard learned counsel for the parties, considered their respective submissions and perused the record of the case with due care.

Contributory Negligence

7. As regards the finding of contributory negligence, Kamlesh Kumar (AW-2) has been examined as an eyewitness to the accident. However, neither the driver nor the owner of the offending trailer has been examined as a witness. The person who lodged the FIR, namely, Manish Diwakar, has also not been examined. The basis on which it was stated in the FIR that the offending vehicle was stationary at the time of the accident is not clear from the evidence on record. It is, however, evident that the eyewitness, Kamlesh Kumar and one Aryan were travelling on the motorcycle along with the deceased.

Thus, three persons were travelling on the motorcycle, exceeding its permitted seating capacity, and they were returning after celebrating a birthday party. The eyewitness, Kamlesh Kumar, has also admitted that the deceased had the last opportunity to avoid the accident. Further, the accident occurred during daytime, and the motorcycle collided with the trailer from behind.

8. Having considered the aforesaid facts and circumstances, together with the evidence available on record, this Court finds no error in the finding recorded by the Tribunal attributing 25% contributory negligence to the deceased, who was driving the motorcycle. Accordingly, the said finding does not warrant any interference by this Court.

Quantum of Compensation

9. As regards the quantum of compensation, although the claimants have contended that the deceased was earning ₹15,000/- per month by working as a driver, neither any documentary evidence nor driving licence (D.L.) has been produced to substantiate the said claim. The accident occurred on 08.04.2019, and the minimum wages payable even to an unskilled labourer at the relevant time were ₹8,400/- per month. Accordingly, this Court considers it appropriate to reassess the monthly income of the deceased at ₹8,400/-.

- 10.The deceased was unmarried, aged about 20 years and a non-salaried person. There are two claimants i.e. the parents of the deceased.
- 11.Considering the date of accident, the age of the deceased and the number of claimants, this Court finds that the addition towards future prospects at the rate of 40%, the deduction of 50% (1/2) towards personal and living expenses, and the multiplier of 18 applied by the Tribunal are just, proper and in accordance with the principles laid down by the Hon’ble Supreme Court. However, the compensation awarded under the conventional heads requires reconsideration in accordance with the applicable legal principles.
- 12.Thus, in light of the aforesaid discussion and the judgments of the Hon’ble Supreme Court in **National Insurance Company Ltd. V. Pranay Sethi¹, Sarla Verma & Ors. Vs. Delhi Transport Corporation & Ors² and Magma General Insurance Co. Ltd. v. Nanu Ram @ Chuhru Ram & Ors³**, the compensation is recomputed as under:-

Sl. No.	Heads	Compensation awarded by the Tribunal	Compensation awarded by this Court
1	Income	7,200x12 =86400	8,400 x12 =1,00,800
2.	Future prospects	(+)40% (i.e.34,560) = 1,20,960	(+)40% (i.e.40,320) = 1,41,120
3.	Deduction	(-) 1/2 =60,480	(-)1/2 = 70,560

1 (2017) 16 SCC 680
2 (2009) 6 SCC 121
3 (2018) 18 SCC 130

4.	Multiplier	(x) 18 =10,93,680	(x) 18 =12,70,080
5.	Funeral Expenses	16,500	15,000
6.	Loss of Estate	16,500	15,000
7.	Loss of Consortium	44,000	80,000 (40,000 x 2)
	Total	Rs. 11,70,680/-	Rs. 13,80,080/-

- 13.** In view of the aforesaid analysis, the total compensation is reassessed at ₹13,80,080/-. However, in view of the finding of 25% contributory negligence attributable to the deceased, as affirmed hereinabove, the claimants shall be entitled to 75% of the reassessed compensation, which comes to **₹10,35,060/-**.
- 14.** Accordingly, after adjusting the amount of ₹8,78,010/- already awarded by the Tribunal, the appellants/claimants shall be entitled to an additional compensation of **₹1,57,050/-**. The aforesaid additional compensation shall carry interest at the rate of 6% per annum from the date of filing of the claim petition before the Tribunal till its actual realisation. The remaining terms and conditions of the impugned award shall remain unaltered.
- 15.** Consequently, the appeal is **partly allowed**, and the impugned award stands modified to the extent indicated hereinabove.
- 16.** The Registry is directed to communicate the claimants in writing “the enhanced/additional amount” 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