



CGHC010088182024



2026:CGHC:43476

HIGH COURT OF CHHATTISGARH AT BILASPUR**MAC No. 559 of 2024**

National Insurance Company Limited By Divisional Manager, National Insurance Branch Bhilai Bhutan Complex Ge Road, Power House Bhilai (C.G.) *through* Authorized Signatory, Assistant Manager T.P. Claim Hub Regional Office, National Insurance Company Ltd. 2nd Floor Mobin Mhal GE Road, Raipur (C.G.)

... Appellant**versus**

1 - Smt. Shakuntala Joshi Wd/o Late Shri Ramesh Joshi, Aged About 48 Years R/o Dumartarai, P.S. Mana, District Raipur (C.G.).

2 - Yavnesht Joshi S/o Late Shri Ramesh Joshi, Aged About 28 Years R/o Dumartarai, P.S. Mana, District Raipur (C.G.).

3 - Himani Joshi D/o Late Shri Ramesh Joshi (Wrongly Mentioned Wife) R/o Dumartarai, P.S. Mana, District Raipur (C.G.).

4 - Vikash Joshi S/o Late Shri Ramesh Joshi (Wrongly Mentioned Wife) R/o Dumartarai, P.S. Mana, District Raipur (C.G.).

5 - Shiv Kumar Singh S/o Late Mohan Singh Thakur, R/o Power House Bhilai Camp-2, Infront of State Bank, P.S. Chavni Bhilai, District-Durg (C.G.).

6 - Amrik Singh S/o Balbir Singh, Aged About 43 Years Amar Road Line TP Nagar, Hathkhoj Bhilai, District Durg (C.G.), R/o LIG-71 Vaishali Nagar Bhilai, Tehsil and District Durg (C.G.)

... Respondents

For the appellants : Mr. B. N. Nande, Advocate with Mr. Abhishek Mishra, Advocate

For the respondents : Mr. Umesh Pandey & Mr. Rakesh Kumar, Advocates, on behalf of Mr. Pushpendra Kumar Patel, Advocate

Hon'ble Shri Justice Sanjay Kumar Jaiswal)

Order on Board

07.10.2026

1. This appeal under Section 173 of Motor Vehicles Act, 1988 (for short "MV Act") has been filed by the Insurer challenging the impugned award dated 03.11.2023 passed by the learned VIII Additional Motor Accident Claims Tribunal, Raipur Chhattisgarh in Claim Case No. 284/2021 whereby a total compensation of Rs. 59,83,703/- has been awarded for the death of Ramesh.

2. As per the pleadings of the claim application filed under Section 166 of the MV Act, on 03.06.2020 deceased Ramesh Joshi @ Ramesh Kumar Satnami was going to his office on a motorcycle. On the way, at Deopuri Fruit Market, respondent no.5 driving the offending Truck No. C.G. 07-BC/9653 in a rash and negligent manner hit the motorcycle of deceased, as a result of which deceased sustained grievous injuries. He was admitted in Mecahara Hospital Raipur where he died during treatment. Respondents 1 to 4 being wife and children of deceased filed claim application u/s 166 of M.V. Act seeking a total compensation of Rs. 1,70,00,000/- on different heads.

3. Learned counsel for the appellants submits that while assessing the total dependency, the Tribunal has not deducted income tax from the annual gross income of deceased, thereby higher compensation has been awarded. His next contention is that claimant Yavnesh Joshi is the major son and he was not dependent on the deceased at the time of accident, therefore, the Tribunal ought to have deducted 1/3rd towards personal expenses and not 1/4th. He prays that the impugned award be suitably modified.

4. Per contra, learned counsel for respondents 1 to 4 opposes the arguments of insurer and submits that looking to the number of claimants and following the principles laid down by the Supreme Court, the Tribunal has rightly deducted 1/4th towards personal expenses. He submits that that the Tribunal has passed the just award, which needs no interference.

5. I have heard learned counsel for the parties, considered their rival submissions and perused the record with utmost circumspection.

6. As regards deduction towards personal expenses, the deceased was married person of 52 years age. The claim petition was filed u/s 166 of M.V. Act by the wife and 3 major children including a widow daughter. There is no evidence on record to show that claimant son Yavnesh Joshi is residing separately with the family of deceased, therefore, he deems to be considered the member of joint family. It is a well-settled principle that even a major married or earning son or daughter can file a claim petition as a legal representative under Section 166 of the MV Act. Therefore in the instant case, since there are four claimants who form part of a joint family, 1/4th deduction made by the Tribunal is proper, which cannot be said to be unsustainable.

7. As regards income of deceased, at the time of incident, the deceased was working as Assistant Driller in Directorate of Geology & Mining, Raipur. The claimants have produced salary slips of deceased vide Ex.P-16 to P-18 for the months of April, May & June, 2020 which clearly go to show that the deceased was last drawing a gross monthly salary of Rs.50,722/- from the State exchequer. Therefore, the Tribunal has rightly taken his monthly income as Rs. 50,722/-(Rs.6,08,664). Since the age of deceased was found to be 52 years, looking to his prospective future income and number of dependents, it has rightly added 15% future prospects, deducted 1/4th and applied proper multiplier of 11.

8. As regards tax deduction, the learned Tribunal did not deduct the

income tax from the gross income. Since the accident occurred on 30.06.2020, the tax liability must strictly be governed by the slabs applicable to Financial Year 2020-2021 (Assessment Year 2021-2022). After adding 15% for future prospects, the gross income stands at 6,99,963/-. The income tax slab (new regime) for the financial year 2020-2021 was as follows:

Income Tax Slabs in the FY 2020-21	Income Tax Rates	Taxable Income	Total Tax
Upto 2.5 lakh	nil	Rs. 2,50,000/-	nil
2,50,001 to 5,00,000/-	5%	Rs. 2,50,000/-	Rs. 12,500/-
5,00,001 to 7,50,000/-	10%	Rs.1,99,963/-	Rs. 19,996/-
Total Tax			Rs. 32,496/-

9. In the light of the aforesaid discussion and in view of the decisions of the Supreme Court rendered in *National Insurance Company Ltd. Versus Pranay Sethi (2017) 16 SCC 680*; *Sarla Verma Vs. Delhi Transport Corporation (2009) 6 SCC 121* and *Magma General Insurance Co. Ltd. Versus Nanu Ram @ Chuhru Ram (2018) 18 SCC 130* , this Court is computing the compensation as below :

Sl.No.	Heads	Compensation awarded by the Tribunal	Compensation awarded by this Court (modified)
1.	Total loss of dependency	57,74,703/-	Rs. 59,722/- X 12 = 6,08,664/- plus Future Prospectus- 15% i.e.,91,299/- = 6,99,963/- minus Income-Tax Rs. 32,496/- = 6,67,467/- minus 1/4th deduction towards personal expenses i.e., 1,66,867/- = 5,00,600 x 11 multiplier = 55,06,600/-

2.	Loss of estate	16,500/-	16,500/-
3.	Funeral expenses	16,500/-	16,500/-
4.	Loss of consortium	1,76,000/ -	(44000 x 4) 1,76,000/-
	Total Rs.	59,83,703/-	57,15,600/-

10. In view of the aforesaid analysis, the claimants are entitled to receive a total compensation of Rs. **57,15,600/-** and not Rs. 59,83,703/- as granted by the Tribunal. Rest of the conditions of the impugned award shall remain intact.

11. Accordingly, this appeal is allowed in part and the impugned award is modified to the extent indicated hereinabove.

Sd/-
Sanjay Kumar Jaiswal
Judge

Rao

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