



CGHC010085542019



2026:CGHC:44948

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

The date which the case is reserved for order	The date when Judgment is pronounced	The date when the Judgment is uploaded
9-10-2026	16-10-2026	16-10-2026

MAC No. 605 of 2019

Yogita Jhulekar @ Yogita Sonker W/o Shri Lekh Ram Jhulekar Aged About 30 Years R/o Village Halekasa Post Shikari, P.S.- Churia, District- Rajnandgaon, Chhattisgarh.....(Claimant)

--- Appellant

versus

1 - Sahil Kumar Tarkhan S/o Suram Chand Tarkhan Aged About 23 Years R/o Village Dhandal, P.S. And Tahsil- Ramnagar, District- Udhampur, Jammu And Kashmir.....(Driver)

2 - Rakesh Kumar S/o Davindra Kumar Occupation- Transportation, Prop M/s National Garage, B.C. Road, Jammu Tavi, R/o Rajbag, Tahsil- Heeranagar, District- Kathua, Jammu And Kashmir.....(Owner)

3 - Shrieeram General Insurance Company Limited Through Its Branch Manager, Office At Second Floor, Thakur Market, Opposite Dr. Baldev Hospital, Dhangu Road, Pathankot, Jammu And Kashmir, Through Branch Manager Shreeram General Insurance Company Limited, Branch Office At 4th Floor, Maruti Hights, Near S.K.Y. Maruti Dealer, G.E. Road, Raipur, District- Raipur, Chhattisgarh.....(Insurance Company)

--- Respondents

For appellant	:	Mr. Yogesh Pandey, Adv.
For Respondent No. 3	:	Mr. Utsav Mahiswar, Adv.
For other respondents	:	None appears

MAC No. 791 of 2019

Shriram General Insurance Company Limited, Through Branch Manager 2nd Floor, Thakur Market Opposite Dr. Baldev Hospital, Dhangu Road, Pathankot J And K) Regional Office 4th Floor, Maruti Heights, Besides Sky Maruti Dealership, G.E. Road Raipur, District Raipur Chhattisgarh. (Non Applicant No. 3)

---Appellant

Versus

1 - Smt. Yogita Jhulekar @ Yogita Sonekar, W/o Lekhram Jhulekar Aged About 30 Years R/o Village Halekosa, Post Shikari Mahaka, Police Station Churiya, Tehsil Churiya, District Rajnandgaon Chhattisgarh. (Claimant)

2 - Sahil Kumar Tarkhan S/o Suramchand Tarkhan Aged About 23 Years R/o Village Dhandal, Police Station And Tehsil Ramnagar, District Udhampur J And K) (Driver)

3 - Rakesh Kumar S/o Davindra Kumar , S/o Davindra Kumar, R/o Rajbhag, Tehsil Hiranagar, District Kathua J And K) (Owner)

--- Respondents

For appellant	:	Mr. Utsav Mahiswar, Adv.
For Respondent No. 1	:	Mr. Yogesh Pandey, Adv.
For other respondents	:	None appears.

(HON'BLE MR. SANTOSH SHARMA, J.)

CAV JUDGMENT

1. Since both these misc. appeals arise out of the same award passed by the Claims Tribunal in same claim case, they are being disposed of by this common judgment.
2. **(a)** MAC No. 605/2019 is claimant's appeal seeking enhancement of compensation awarded by 2nd Additional Motor

Accident Claims Tribunal, Rajnandgaon (for short “the Tribunal”) in Claim Case No. 175/2016 vide award dated 19-11-2018.

(b) MAC No. 791/2019 has been preferred by the Insurance company against the above award for exonerating it from payment of compensation amount.

For convenience, parties shall be referred to as per their status before the Claims Tribunal.

3. The facts of the case, in brief, are that on 27-6-2016, the claimant, along with her husband, Lekhram Jhulekar, and other family members, was travelling from Bhopal to her home at Village Halekosa, District Rajnandgaon, in a Mahindra car bearing Registration No. CG-08-W-9111. When they reached the river bridge near Village Sukhtawa, upon seeing a Maruti Omni car approaching from the opposite direction, the driver of the Mahindra car stopped the vehicle on his side of the road. At that time, the truck bearing Registration No. JK-08-C-6468, driven by non-applicant No. 1 at a high speed and in a rash and negligent manner, hit the Mahindra car from behind. As a result of the accident, the claimant was severely trapped inside the car and sustained serious injuries to various parts of her body. She was subsequently hospitalized for treatment. In connection with the incident, Crime No. 68/2016 was registered against non-applicant No. 1 at Police Station Kesla, District Hoshangabad, for offences punishable under Sections 279, 337 and 338 of the Indian Penal Code. The claimant thereafter filed a claim application under Section 166 of the Motor Vehicles Act,

1988, before the Court of the 2nd Additional Motor Accident Claims Tribunal, District Rajnandgaon (CG), seeking compensation for the injuries sustained by her in the accident.

4. As against the compensation of Rs. 40,55,000/- claimed by the claimant, by filing application under Section 166 of the Motor Vehicles Act, 1988 (for short "the Act") for the injuries sustained by her in the motor accident on 27-6-2016, the Tribunal awarded a total sum of Rs. 19,20,900/- along with simple interest @ 6% per annum from the date of application till it is actually paid.
5. Upon a close scrutiny of the evidence adduced, the learned Tribunal held that, on 27.06.2016, respondent No. 1/driver, while driving the Tata truck bearing registration No. JK 08/C/6468 (hereinafter referred to as the "offending vehicle"), owned by respondent No. 2 and insured with respondent No. 3, rashly and negligently dashed against the car bearing registration No. CG 08/W/9111, in which claimant was traveling, thereby causing the accident. The claimant sustained permanent disability of 25% as a result of the accident. The Tribunal further held that it was not proved that the offending vehicle was being driven in violation of the terms and conditions of the insurance policy. Accordingly, the claimant was held entitled to receive compensation of Rs. 19,20,900/- from respondent No. 3/Insurance Company.
6. Learned counsel for the claimant in MAC No. 605/2019 submits that, having regard to the evidence available on record and the injuries sustained by the claimant, the compensation awarded by the learned

Tribunal is grossly inadequate. He further submits that the learned Claims Tribunal has erred in not awarding any compensation under the head of loss of future income. He also submits that, in cases involving personal injuries, compensation is required to be determined under the heads of pecuniary damages (special damages) and non-pecuniary damages (general damages); however, the learned Tribunal has failed to properly assess the compensation under these heads. He further submits that the claimant had produced an income tax certificate in support of her income, but the learned Tribunal failed to properly appreciate the same and assessed her monthly income at Rs. 35,000/- instead of Rs. 40,000/-. Lastly, he submits that, owing to the accident, the claimant was unable to work for eight months, whereas the learned Tribunal has awarded compensation for loss of income for only four months. He, therefore, prays that the compensation awarded by the learned Claims Tribunal be suitably enhanced.

7. Per contra, learned counsel for the Insurance Company in MAC No. 791/2019, assailing the impugned award, submits that the learned Tribunal has erred in assessing the monthly income of the claimant at Rs. 35,000/-, as there was no documentary evidence to establish that she was earning Rs. 40,000/- per month from her profession as a teacher at *Jhulekar Coaching*, which is run by her husband. Learned counsel further submits that the learned Tribunal has erred in awarding Rs. 16,80,000/- towards future loss of income, as the claimant is engaged in the profession of teaching and, having regard to the nature of her occupation, she can resume her profession. Therefore, the

award under the said head is unjustified and liable to be set aside. Learned counsel also submits that the learned Tribunal has failed to properly apply the principles laid down by the Hon'ble Supreme Court in ***Raj Kumar v. Ajay Kumar and Another***, (2011) 1 SCC 343, while assessing the compensation payable to the claimant for the injuries sustained in the accident. Lastly, learned counsel submits that the compensation awarded under the conventional heads is also on the higher side and is not justified by the evidence available on record. He, therefore, prays that the impugned award be suitably modified by reducing the compensation awarded to the claimant.

8. I have heard learned counsel for the parties and perused the record of the learned Tribunal, including the impugned award.
9. In both the appeals, the only question for consideration is the quantum of compensation. The learned Claims Tribunal assessed the monthly income of the claimant at Rs. 35,000/- instead of Rs. 40,000/-. While assessing the income, the learned Tribunal observed that the claimant had admitted that she had not produced any documentary evidence to establish that she was earning Rs. 40,000/- per month. Although she was an educated woman and was stated to be running a coaching class, the learned Tribunal, upon considering her Income Tax Returns for the assessment years 2015–2016, 2016–2017 and 2017–2018, concluded that she was earning Rs. 35,000/- per month from the coaching class.

10. Upon a careful examination of the aforesaid finding of the learned Claims Tribunal, this Court finds no irregularity or perversity therein. While determining the income of a claimant in a motor accident claim, the Tribunal may, where necessary, resort to a reasonable estimate based on the evidence available on record. The claimant is required to establish her case on the touchstone of the preponderance of probabilities, and the strict rules of evidence are not required to be applied with the same rigour as in ordinary civil or criminal proceedings.
11. The Hon'ble Supreme Court, in ***Rashmirekha Tripathi and Another v. The Branch Manager (Legal Claims), Shriram General Insurance Company Limited and Others*** [2026 LiveLaw (SC) 654], while dealing with the determination of a person's income, has observed in paragraphs 19 and 20 as under:-

“19. When it comes to self-employed/individuals carrying out their own business, in our view, the average of the income specified in the ITRs of up to the previous three years is to be taken as a reference point for assessment of annual income from their business. There may also be a scenario where only one or two ITRs have been filed. Given such scenarios and the fluctuation of income in these professions, surrounding circumstances are also to be taken into consideration. These would include:-

a) The nature of the business (including geographic location, category etc.);

b) Growth pattern of the business and impact of death on the business;

c) Potential growth of business (for instance certain businesses are capital intensive at the outset and are profitable at scale/in the future);

d) Negative income (certain businesses may require losses in the initial years, which may not reflect the true financial standing); and

e) Any other relevant factor relating to the business.

20. *The date when the ITRs are filed would also become a relevant consideration, as there may be scenarios where inflated income is showcased after death/injury. In these circumstances, the surrounding factors of the business would become more relevant. However, if sufficiently supported by financial statements, such ITRs may also be taken into consideration."*

12. In the instant case, the claimant produced ITRs of three years i.e. 2015-2016, 2016-2017, 2017-2018. ITR of the year 2015-2016 shows that source of income of the claimant was running of coaching class. Aforesaid ITR was filed prior to the accident, therefore, it cannot be said that, this document was made for getting undue benefits. It appears to be reliable. There is nothing on record to disbelieve on the said ITRs.

13. Learned Claims Tribunal, in the light of the aforesaid judgment of Hon'ble Supreme Court, has not committed any illegality while

assessing the income of the claimant, therefore, the contention raised by the Insurance company in MAC No. 791/2019 is not sustainable.

14. So far as percentage of disability is concerned, relying on the decision of Hon'ble Supreme Court in the case of **Raj Kumar** (supra), learned Claims Tribunal assessed 25% of permanent disability. The learned Tribunal observed that Dr. Prakash Bhalerao (P.W. 4) had admitted that the disability was confined to the affected part of the body and did not extend to the whole body. He had further stated that the condition could be improved through physiotherapy undertaken from time to time. In view of the aforesaid evidence, this Court finds that the learned Tribunal has rightly assessed the permanent disability of the claimant at 25% in respect of functional disablement for whole body. Accordingly, no interference with the aforesaid finding of the learned Tribunal is warranted.
15. Thus, in the opinion of this Court, the compensation awarded by the learned Tribunal is just and reasonable and does not warrant any interference.
16. In view of the foregoing discussion, both the appeals, being devoid of merit, are dismissed. No order as to cost(s).

Sd/-

(Santosh Sharma)
JUDGE

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