



CGHC010298862020



2026:CGHC:41813

**NAFR**

**HIGH COURT OF CHHATTISGARH AT BILASPUR**  
**MAC No. 27 of 2021**

- 1** - Smt. Sarita Kaushik Wd/o Late Suraj Kaushik Aged About 24 Years.
- 2** - Kumari Khushi Kaushik D/o Late Suraj Kaushik Aged About 5 Years.
- 3** - Kumari Miyanshi Kaushik @ Mansi Kaushik D/o Late Suraj Kaushik Aged About 3 Years.
- 4** - Vikas Kaushik S/o Late Manoj Kaushik Aged About 22 Years.
- 5** - Smt. Parmeshwari Kaushik Wd/o Late Manoj Kaushik Aged About 47 Years.
- Appellant Nos.2 and 3 are minor through mother (Natural Guardian) Smt. Sarita Kaushik.
- All are R/o Village- Gram Panchayat Podi (bh), Police Station- Sakri, Tahsil- Takhatpur, District-Bilaspur (Chhattisgarh).

**... Appellants/Claimants.****versus**

- 1** - Narsingh Kashyap (Kurmi) S/o Dhaniram Kashyap Aged About 28 Years R/o Village- Podi (Dalha), Police Station- Akaltara, District- Janjgir-Champa (Chhattisgarh) (Driver).
- 2** - Libarti General Insurance Company Limited Through Branch Manager, Branch Office- Mittal Complex, 1st Floor, Near St Bank, Vyapara Vihar Road, Bilaspur, District- Bilaspur (Chhattisgarh)

**... Respondent(s)**

|                                               |                                      |                                        |
|-----------------------------------------------|--------------------------------------|----------------------------------------|
| The date which the case is reserved for order | The date when Judgment is pronounced | The date when the Judgment is uploaded |
| 16-09-2026                                    | 25.09.2026                           | 26.09.2026                             |

|                     |                                                                          |
|---------------------|--------------------------------------------------------------------------|
| For Appellants      | Mr. Anand Kesharwani, Advocate                                           |
| For Respondent No.1 | Ms. Sweksha Sharma, Advocate on behalf of<br>Ms. Aditi Singhvi, Advocate |
| For Respondent No.2 | Ms. Gajendra Sahu, Advocate on behalf of Mr.<br>Atanu Ghosh, Advocate    |

**Hon'ble Shri Santosh Sharma, Judge**

**C A V Judgment**

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 legality and validity of the impugned award dated 17.01.2020 passed by the Motor Accident Claims Tribunal, Bilaspur, District -Bilaspur, C.G (in short 'the Tribunal') in Claim Case No.277/2019, whereby the Tribunal has awarded a total sum of Rs.13,55,200/- as compensation in death case.
2. Relevant facts for disposal of this appeal are that on 15.11.2018, at about 5:00 p.m., husband of appellant No.1, namely, Suraj Kaushik alongwith Sunil Kumar Sidar and Chandrika Prasad, was travelling from Village Podi to Ganiyari on Motorcycle bearing registration No.CG-10-AL-8452; said motorcycle was being driven by Chandrika Prasad Kaushik whereas Suraj Kaushik and Sunil Kumar Sidar was seated as pillion rider. When they reached near village Chakrakund, respondent No.1/driver of Motorcycle bearing registration No. CG-11-AP-6399 (for short, 'offending vehicle') was coming at a high speed in a rash and negligent manner from wrong side of the road and collided with their motorcycle. As a result of said accident, all three persons fell

down and Suraj Kaushik sustained fatal injuries and succumbed to the said injuries. The accident was reported to the concerned Police Station, based upon which, a case was registered against driver of offending vehicle.

3. Claimants, who are family members of deceased, filed a claim application/petition before the Tribunal claiming a total compensation of Rs.60,00,000/- under various heads stating that at the time of the alleged accident, deceased Suraj Kaushik was aged about 26 years and was earning Rs.15,000/- per month by doing work as store-keeper at 36 mall. Claimants are depend upon income of deceased and on account of the untimely death of deceased, they were deprived of his income.
4. Non-applicant No.1/driver of offending vehicle (respondent No.1 herein) was remained ex-parte before the Tribunal.
5. Non-applicant No.2/Insurance Company filed reply to the claim application and denied the adverse averments made therein.
6. After considering the pleadings and evidence adduced by the respective parties, the learned Tribunal awarded a total sum of Rs.13,55,200/- as compensation alongwith interest at the rate of 6% per annum from the date of filing of the claim application till its actual payment.
7. Learned counsel for the appellants submits that the learned Tribunal has erred in awarding an inadequate amount of compensation to the appellants/claimants. The Tribunal has assessed the income of

deceased on lower side and has awarded inadequate compensation under the conventional heads. The Tribunal has failed to award any amount of compensation towards consortium in favour of children and mother of deceased, namely, appellant Nos. 2, 3 and 5. Learned Counsel further submits that the Tribunal has erred in awarding interest from the date of filing of the claim application, whereas interest ought to have been awarded at the rate of 12% per annum from the date of the accident. On the aforesaid grounds, instant appeal be allowed and compensation awarded by the Tribunal be suitably enhanced.

8. Per contra, learned counsel for respondent No.1/driver of offending as well as learned counsel for respondent No.2/Insurance Company opposes the submissions of counsel for the appellant, submits that the Tribunal, after duly appreciating the oral and documentary evidence available on record, has rightly awarded the compensation. Hence, the compensation awarded by the Tribunal is just and proper and does not call for any interference.
9. Heard learned counsel for the parties and perused the records with utmost circumspection.
10. Though the appellants-claimants have claimed that, at the time of the accident, the deceased was earning Rs.15,000/- per month by working as a Store Keeper at 36 Mall, but no documentary evidence has been brought on record to substantiate the said claim/income. In the absence of any reliable and satisfactory evidence establishing the

actual income of the deceased, the learned Tribunal has rightly treated the deceased as a person engaged in ordinary labour and assessed his income at Rs.200/- per day, i.e., Rs.6,000/- per month.

11. From perusal of the impugned award, it appears that the learned Tribunal has awarded a sum of Rs.40,000/- towards consortium to appellant No.1/wife of deceased, however, no amount under the said head has been awarded in favour of children and mother of deceased. In view of the settled legal position that the spouse, children and parents of the deceased are entitled for consortium. Accordingly, appropriate compensation towards consortium is liable to be awarded to appellant Nos.2, 3 & 5, who are daughters and mother of deceased.
12. Thus, in light of the aforesaid discussion and in light of the judgments of the Supreme Court rendered in the matters of **National Insurance Company Ltd. V. Pranay Sethi<sup>1</sup>, Sarla Verma & Ors. Vs. Delhi Transport Corporation & Ors<sup>2</sup>** and **Magma General Insurance Co. Ltd. v. Nanu Ram @ Chuhru Ram & Ors<sup>3</sup>**, this Court is computing the compensation as below:-

| Sr. No. | Heads           | Compensation awarded by this Court           |
|---------|-----------------|----------------------------------------------|
|         | Income          | Rs.6000/- per month<br>Rs.72,000/- per annum |
|         | Future prospect | (+) 40% (i.e. Rs.28,800) = 1,00,800/-        |
|         | Deduction       | (-) 1/4 (i.e. 25,200) = 75,600/-             |
|         | Multiplier      | (x) 17                                       |

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

|  |                           |                                                                                                                                                                                                                            |
|--|---------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|  | Total loss of dependency. | Rs. 12,85,200/-                                                                                                                                                                                                            |
|  | Other conventional heads  | Rs.15,000 + 15,000 + 1,60,000<br>(4 x 40,000) = 1,90,000/-<br>(funeral expenses, loss of estate<br>and Rs.40,000/- each towards<br>consortium to appellant Nos.1 to 3<br>& 5/wife, children and mother of<br>the deceased. |
|  | <b>Total</b>              | <b>Rs.14,75,200/-</b>                                                                                                                                                                                                      |

13. Now, the appellants/claimants are entitled to get compensation Rs.14,75,200/- instead of Rs.13,55,200/- as awarded by the Tribunal. The additional amount of compensation shall carry interest @ 6% per annum from the date of filing of the claim application before the Tribunal till its realization. Rest of the conditions of the impugned award shall remain intact.
14. In the result, the appeal is **partly allowed** and the impugned award is modified to the extent as indicated herein-above.

**Sd/-**  
**(Santosh Sharma)**  
Judge

J/-