



CGHC010367772019

2026:CGHC:41811

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****MAC No. 1892 of 2019**

Vijay Kumar Pandey S/o. Panna Lal Pandey Aged About 55 Years R/o. Village Lata P.S. Takhatpur District Bilaspur, Chhattisgarh. (Driver of Offending Vehicle)

..Appellant.**versus**

1 - Smt. Kaushilya Devi Wd/o. Late Guru Prasad Dhuri Aged About 52 Years R/o Village Amora P.S. Takhatpur District Bilaspur, Chhattisgarh. (Claimant)

2 - Amit Kumar Dhuri S/o Late Guru Prasad Dhuri Aged About 17 Years Minor Therefore Represented Through Respondent No.1-Mother (Natural Guardian). R/o Village Amora P.S. Takhatpur District Bilaspur, Chhattisgarh. (Claimant)

3 - Motilal Kesharwani S/o Pyarelal Kesharwani (Died) Through Legal Representative (Legal Heir Added As Per Honble Court Order Dated 02.07.2025)

3 -(A) Sharad Kesharwani S/o Late Motilal Kesharwani Aged About 55 Years.

3- (B) Suresh Kesharwani S/o Motilal Kesharwani Aged About 54 Years.

3- (C) Basant Kesharwani S/o Late Motilal Kesharwani Aged About 50 Years.

3 -(D) Hemant Kesharwani S/o Late Motilla Kesharwani Aged About 48 Years

3-(E) Kiran Kesharwani S/o Late Motilal Kesharwani Aged About 46 Year.

All are resident of Village - Puchheli, Tahsil - Takhatpur, District - Bilaspur (C.G.)

... Respondents

The date which the case is reserved for order	The date when Judgment is pronounced	The date when the Judgment is uploaded
15-09-2026	25.09.2026	26.09.2026

For Appellant-Driver : Mr. Pravin Kumar Tulsian, Advocate
For Respondent Nos.1 & 2/Claimants : Mr. Vikas Shrivastava, Advocate.
For Respondent No.3/Owner : None though served.

Hon'ble Shri Santosh Sharma, Judge

C A V Judgment

1. By the instant appeal, the appellant is challenging the legality and validity of the impugned award dated 19.09.2019 passed by the Motor Accident Claims Tribunal, Bilaspur, C.G (in short 'the Tribunal') in Claim Case No.44/2015, whereby the Tribunal has awarded a total sum of Rs.2,53,000/- in death case.
2. Relevant facts for disposal of this appeal are that on 22.12.2010, deceased Guru Prasad Dhuri was proceeding on his motorcycle, when he reached near Village Motimpur Lata, respondent No.1 while driving the Tractor bearing registration No.CG10-A-1031 (for short, 'offending vehicle') in a rash and negligent manner dashed against the motorcycle of deceased Guru Prasad. As a result of said accident, deceased Guru Prasad sustained serious injuries on his head, face, hands, legs and other parts of his body and succumbed to the said injuries. The accident was reported to the concerned Police Station,

pursuant to which, a case was registered against respondent No.1 under Section 304-A of the Indian Penal Code.

3. Claimants, who are wife and son of deceased, filed a claim application/petition before the Tribunal claiming a total compensation of Rs.7,33,000/- under various heads on account of the accidental death of deceased Guru Prasad. In the claim application, it was stated that, at the time of the alleged accident, deceased Guru Prasad was aged about 55 years and was earning Rs.6,000/- per month by running an agricultural centre at Village Amora. On account of the untimely death of Guru Prasad in the said accident, the claimants were deprived of his income.
4. Non-applicant No.1/driver of offending vehicle (appellant herein) filed reply to the claim application and denied the adverse averments made therein.
5. Non-applicant No.2/Owner of offending vehicle (respondent No.3 herein) was remained ex-party before the Tribunal.
6. The learned Claims Tribunal, after considering the pleadings and the evidence adduced by the respective parties, recorded a finding that deceased Guru Prasad had died in accident which occurred on account of the rash and negligent driving of the offending vehicle by non-applicant No.1/Appellant herein. Vide impugned award, the Tribunal partly allowed the claim application and awarded a total compensation of Rs.2,53,000/- to the claimants on account of the

accidental death of the deceased. The liability to satisfy the award was fastened upon non-applicant No.1 (driver of offending vehicle).

7. Learned counsel appearing for the appellant submits that impugned award is contrary to law as the Tribunal has failed to properly appreciate the testimony of the witnesses. The Tribunal has wrongly disbelieved the statements of the witnesses examined on behalf of the appellant and has erroneously recorded a finding that the appellant was negligent at the time of the alleged incident. The Tribunal has erred in exonerating non-applicant No.2 (respondent No.3 herein) from its liability to pay the compensation despite recording a finding that respondent No.3 was the registered owner of the offending vehicle on the date of the incident. He contended that appellant has been acquitted from the criminal case, copy of judgment of acquittal marked Exhibit D-1. The Tribunal has erroneously relied upon the documents forming part of the criminal proceedings, ignoring the settled position of law that the statements/evidence recorded in criminal proceedings and other documents forming part thereof cannot be treated as conclusive in a claim proceeding; the claim application is required to be adjudicated on the basis of the evidence and material brought on record before the Claims Tribunal. Learned Counsel further contended that the Tribunal has wrongly relied upon the FIR, although the same was not duly proved by the claimants; the claimants neither produced nor examined any witness for proving the FIR before the Claims Tribunal. Learned Counsel further contended that looking to the nature of occupation of the deceased, his age and evidence adduced before

the Tribunal, compensation awarded by the Tribunal is on the higher side. As such, impugned award be set aside. In support of his contention, learned Counsel places reliance upon the decision of Hon'ble Supreme Court in case of **Naveen Kumar versus Vijay Kumar & Ors**, reported in **AIR 2018 SC 983**.

8. Per contra, learned counsel appearing for respondent Nos.1 and 2/claimants submits that, upon due consideration of the facts and based on the material/evidence available on record, the Tribunal has rightly passed the impugned award, in which, interference is not required. Appeal preferred by the appellant is devoid of merit and deserves to be dismissed.
9. None for respondent No.3/Owner of offending vehicle, though notice has been duly served upon him.
10. Heard learned counsel for the parties and perused the impugned award as well as record of the case.
11. It is undisputed that on the date of the accident, appellant was holding a valid driving licence and offending vehicle was not insured with any insurance company, therefore, no insurance company was impleaded as a party to the claim proceedings.
12. So far as first ground that the compensation awarded by the Tribunal is on the higher side is concerned, perusal of the impugned award shows that, although the claimants pleaded that, on the date of the accident, deceased Guru Prasad was aged about 55 years and was

earning Rs. 6,000/- per month by running an agricultural centre at Village Amora, but no documentary evidence in support thereof was produced. Therefore, in the absence of any reliable evidence regarding the income of the deceased, keeping in view nature of his occupation, date of the accident, wage structure prevailing on the date of the accident, price index, cost of living and other relevant factors, the Tribunal rightly assessed the income of the deceased at Rs.3,000/- per month and, thereafter, upon adding the other permissible benefits/consortium, the Tribunal has rightly calculated the amount of compensation to the tune of Rs.2,53,000/- which cannot be said to be on the higher side.

13. So far as second ground relating to the rash and negligent driving of the offending vehicle by the appellant, resulting in accident and death of deceased Guru Prasad, is concerned, upon perusal of the record it is evident that on 22.12.2010, upon receiving information from the informant regarding an accident at Village Motimpur-Lata, the police reached the spot and found that deceased Guru Prasad had sustained grievous injuries in the road accident and had died on the spot. Thereafter, FIR No. 475/2010 (Exhibit P-1) was registered against the appellant. The offending vehicle i.e. Tractor bearing Registration No. CG10-A-1031 as well as Driving Licence of the appellant were seized by the Police vide seizure memo Exhibits P-5 & P-6. After completion of the investigation, the final report (Exhibit P-2) was submitted, wherein driver of the offending vehicle Vijay Kumar Pandey (appellant herein), was arrayed as an accused. The post-mortem report (Exhibit

P-3) also records that death of the deceased had occurred as a result of a road accident.

14. Claimant's Witness No.2/Shriram Dhadsena in his evidence has stated that, on 22.12.2010, he was travelling on his motorcycle from Village Amora to Kukusda and, as soon as he reached near Motimpur-Lata Road, the appellant -Vijay Kumar Pandey, while driving the offending vehicle at a high speed and in a rash and negligent manner, overtook him and proceeded towards the wrong side of the road, whereupon he dashed against the motorcycle of deceased Guru Prasad, who was coming from the opposite direction on his proper side of the road. As a result of said impact, Guru Prasad sustained fatal injuries and died.
15. The appellant-Vijay Kumar Pandey was examined as NAW-1. In his written statement, he pleaded that he was the licensed driver of the offending vehicle and on the date of the incident, he had stopped at the place of incident only for the purpose of rendering assistance to the deceased, however, treating him as the person who had caused the accident, a false report was lodged against him and his vehicle had been wrongly seized. However, in his cross-examination, he admitted that he had not made any complaint against the Takhatpur Police before any higher police authority regarding such alleged false implication or wrongful seizure of his vehicle. He further pleaded that the alleged accident had occurred as a result of the motorcycle of the deceased colliding with another vehicle. Whereas, in Criminal Case

No. 54/11 (Exhibit D-1), this witness deposed that he had not witnessed the accident.

16. It is pertinent to mention that acquittal of the appellant in the criminal case, as reflected from the judgment marked as Exhibit D-1, is the result of a separate judicial proceeding. The mere fact that the appellant was acquitted in the said criminal case cannot, by itself, be relied upon in the present claim proceedings.

17. The effect of acquittal in criminal proceedings on the adjudication of a claim petition under the Motor Vehicles Act has been considered by the Hon'ble Supreme Court in case of **Reena versus Managing Director, Karnataka State Road Transport**, reported in **2026 SCC OnLine SC 1663**; some precedents which is applied/dealt with in MACT cases is also mentioned in the said case. Relevant para of said case reads as under:

“20. We preface a few of the well-established precedents in the adjudication of Motor Vehicle Accident claims:

A. Police investigation records, including the FIR and final Charge-Sheet, constitute valid, admissible, and reliable prima facie evidence to establish rash and negligent driving in MACT proceedings. Further, a subsequent acquittal in a criminal case does not affect the assessment of tortious liability under the MV Act.

B. Criminal proceedings and civil MACT Claim Petitions operate in entirely distinct legal realms, as the degree of “culpable rashness” required under Section 304-A of

the Indian Penal Code, 1860 (“IPC”) is significantly higher than civil negligence under the law of torts. The findings, quashment, or acquittals in Criminal Court cannot control or dictate the outcome of MACT proceedings, which must be evaluated independently on civil standards.

C. A site map or accident sketch cannot be read in isolation or used as the sole basis to record contributory negligence against a deceased driver in the absence of corroborating ocular evidence. Furthermore, the non-examination of all potential witnesses is not fatal to a claim if the existing record adequately establishes negligence.

D. The spot where a lighter vehicle is found lying on a site map post- accident cannot be assumed to be the spot where the collision occurred, nor that it was being driven on the wrong side, as a collision with a heavy, speeding vehicle naturally pushes or drags the smaller vehicle forward. The Charge Sheet points towards prima facie driver complicity, and site maps alone cannot establish contributory negligence without direct contra- evidence.

E. Motor accident Claim Petitions under Section 166 of the MV Act must be adjudicated on the touchstone of “preponderance of probability” rather than proof beyond reasonable doubt. Further, under Section 173 of the MV Act, the Appellate Court is required to carefully marshal all oral and documentary evidence before reversing a reasoned MACT award.”

18. In the present case, mere acquittal in criminal case does not exonerated the liability of appellant to pay the compensation, he has to established the point of accident separately.
19. Upon an overall appreciation of the oral as well as documentary evidence available on record, no circumstance has emerged which may indicate that death of deceased Guru Prasad was caused due to any reason other than the accident in question and it is established that deceased Guru Prasad died as a result of a road accident caused by rash and negligent driving of the appellant.
20. So far as question as to whether respondent No.3 was the registered owner of offending vehicle on the date of alleged accident and, consequently, whether the registered owner, the person in possession of the offending vehicle and its driver are liable to pay the amount of compensation is concerned, the same requires consideration on the basis of the evidence available on record.
21. The appellant filed his examination-in-chief by way of an affidavit under Order XVIII Rule 4 of the Code of Civil Procedure, wherein he stated that on the date of alleged accident, Motilal Kesharwani (respondent No.3) was the registered owner of the offending vehicle. In his cross-examination, he admitted that offending vehicle, i.e. tractor and trolley, had been seized from him by the Investigating Officer of Police Station Takhatpur and he had also been arrested in the present case. He further admitted that he had purchased the said vehicle prior to the accident and the vehicle was in his possession at the time of the

accident. He stated that, for this reason, the documents marked as Exhibits D-2 and D-3 were in his possession and said vehicle was still in his possession.

22. Perusal of the Registration Certificate (Exhibit D-2) seized as per seizure memo Exhibit P-5, shows that the offending vehicle was registered in the name of respondent No.3/Motilal Kesharwani. However, as per Registration Certificate (Exhibit D-3), said offending vehicle was transferred in the name of the appellant-Vijay Kumar Pandey on 14.01.2011, whereas the alleged accident occurred on 22.12.2010. Thus, it is clear that, on the date of the accident, offending vehicle stood registered in the name of respondent No.3.

23. However, appellant/non-applicant No.1, in his deposition, has categorically admitted that he had purchased the vehicle in question prior to the accident and said vehicle was in his possession at the time of the accident. He has further admitted that Ex. D-2 and Ex. D-3 were in his possession and that said vehicle (tractor and trolley) continue to remain in his possession.

24. In view of the aforesaid admission and discussion, it is established that, on the date of the accident, the appellant was in possession of the offending vehicle, whereas said vehicle stood registered in the name of respondent No.3/Motilal Kesharwani.

25. The expression "owner" is defined under Section 2(30) of the Motor Vehicles Act, 1988, which reads as under:

“Section 2(30) : ‘owner’ means a person in whose name a motor vehicle stands registered, and where such person is a minor, the guardian of such minor, and in relation to a motor vehicle which is the subject of a hire-purchase agreement, or an agreement of lease or an agreement of hypothecation, the person in possession of the vehicle under that agreement.”

26. The Hon’ble Supreme Court, in *Naveen Kumar* (supra), has considered the question as to who would be treated as the “owner” of a motor vehicle and has held that the person in whose name the vehicle stands registered would be treated as the owner. The relevant paragraph of the said judgment reads as under:

“12. The consistent thread of reasoning which emerges from the above decisions is that in view of the definition of the expression ‘owner’ in Section 2(30), it is the person in whose name the motor vehicle stands registered who, for the purposes of the Act, would be treated as the ‘owner’. However, where a person is a minor, the guardian of the minor would be treated as the owner. Where a motor vehicle is subject to an agreement of hire purchase, lease or hypothecation, the person in possession of the vehicle under that agreement is treated as the owner. In a situation such as the present where the registered owner has purported to transfer the vehicle but continues to be reflected in the records of the registering authority as the owner of the vehicle, he would not stand absolved of liability. Parliament has consciously introduced the definition of the expression ‘owner’ in Section 2(30), making a departure from the provisions of Section 2(19) in the

earlier Act of 1939. The principle underlying the provisions of Section 2(30) is that the victim of a motor accident or, in the case of a death, the legal heirs of the deceased victim should not be left in a state of uncertainty. A claimant for compensation ought not to be burdened with following a trail of successive transfers, which are not registered with the registering authority. To hold otherwise would be to defeat the salutary object and purpose of the Act. Hence, the interpretation to be placed must facilitate the fulfilment of the object of the law. In the present case, the First respondent was the 'owner' of the vehicle involved in the accident within the meaning of Section 2(30). The liability to pay compensation stands fastened upon him. Admittedly, the vehicle was uninsured. The High Court has proceeded upon a misconstruction of the judgments of this Court in *Reshma* (AIR 2015 SC 290) and *Purnya Kala Devi*."

27. In view of above discussions, respondent No.3, being the registered owner of the offending vehicle on the date of the accident, cannot escape his liability to pay the compensation awarded to the claimants. At the same time, the appellant, who was admittedly in possession of the offending vehicle and was driving the same at the time of the accident, cannot absolve himself of liability arising from the accident.
28. Accordingly, respondent No.3, being the registered owner of the offending vehicle and the appellant, being the person in possession of and driving the offending vehicle at the time of the accident, are jointly and severally liable to satisfy the award of compensation passed in favour of the claimants.

29. In the result, the appeal is partly allowed. The impugned award is modified to the aforesaid extent.

Sd/-
(Santosh Sharma)
Judge

J/-