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HIGH COURT OF CHHATTISGARH AT BILASPUR

MAC No. 2568 of 2025

The National Insurance Company Limited Through Branch Manager, The National Insurance Company Limited, Main Road, Kosabadi, Korba, First Floor of Bandhan Bank, Tahsil and District Korba (C.G.) (Non Applicant No. 3).....(Insurer of Vehicle Scorpio Bearing Registration No. C.G. 12/D/9455)

... **Appellant**

versus

1 - Rajendra Kumar Rathor S/o Late Bihari Lal Rathor, Aged About 50 Years R/o Bajrang Chowk, Police Station Deepka, Tahsil- Katghora, District Korba (C.G.) (Claimant/injured)

2 - Ghanshyam Nirmalkar S/o Puniram Nirmalkar, Aged About 34 Years R/o Qr.No. B- 86, Saktinagar, Deepka, Police Station- Deepka, Tahsil Katghora, District Korba (C.G.) (Non-Applicant/ Non-Claimant No. 1).....(Driver of Vehicle Scorpio Bearing Registration No. C.G. 12/D/9455).

3 - A.C.B. India Limited, Address- Chakabuda, Post- Jawali, Police Station- Deepka, Tahsil Katghora, District Korba (C.G.). (Non-Applicant/ Non-Claimant No. 2).....(Registered **Owner of Vehicle Scorpio Bearing Registration No. C.G. 12/D/9455)**

... **Respondents**

For the appellant	: Mr. Shivendu Pandya, Advocate
For the respondents	: None

Hon'ble Shri Justice Sanjay Kumar Jaiswal)

Judgment on Board

21.08.2026

1 This appeal under Section 173 of Motor Vehicles Act, 1988 (for short “MV Act”) has been filed by the Insurance Company challenging the impugned award dated 26.04.2024 passed by the First Additional Motor Accident Claims Tribunal, Katghora, District Korba, Chhattisgarh in Claim Case No. 134/2019.

2. Brief facts of the case as pleaded in the claim application are that on 01.02.2018, the claimant/respondent no.1 Rajendra Kumar Rathore along with his friend Jagnarayan was going on his motorcycle from Gevra to Tiwarata and when he reached Sikri turning, near main Road, Dipka, respondent no.2 driving the offending vehicle in rash and negligent manner hit the motor cycle of the claimant Rajendra, due to which he sustained serious injuries on several parts of his body and got permanent disability. Hence, he filed a claim petition seeking a total compensation of Rs.25,65,000/- on various heads.

3. The Tribunal has granted a total compensation of Rs.18,56,836/- on various heads as per the following table :

Sl.No	Head	Amount Rs.
01.	Loss of future income due to disability	11,62,979
02.	Physical suffering and mental agony	2,00,000
03.	Special diet	20,000
04.	Attendant charges	40,000
05.	Future treatment, attendant charges and special diet	2,00,000/-
06.	Loss of amenities and Physical comforts	1,00,000/-
07.	Current treatment expenses vide Ex.P-6 to 96, Ex.P-97 to 147 and Ex.P-148 to 153	1,33,857/-
	Total Rs.	18,56,836/-

4. At this stage, learned counsel for the appellant/insurance company

confines his argument only to the amount granted under the head “loss of future income” which was inadvertently assessed by the Tribunal on higher side. He submits that though the tribunal has rightly considered the total functional disability of the claimant to be only 18.52% based on doctor’s evidence (A.W.3), however, the amount of Rs.21,846/- lost towards disability has wrongly been deducted from the annual income of deceased and further instead of multiplying the income lost by the multiplier 11, the Tribunal has inadvertently multiplied the remaining residual income by 11 while assessing the future loss of income, which cannot be allowed to sustain. Therefore, the impugned award may suitably be modified to that extent.

5. I have heard learned counsel for the appellant and also perused the impugned award.

6. The claimant pleaded that he was earning Rs.20,000/- by doing the job of tailor. In absence of any documentary evidence and looking to the nature of job of the deceased, the Tribunal took his monthly income as Rs.9,830/- and annual income Rs.1,17,860/- treating him as skilled labour as per the wages applicable to the monthly/daily paid employees working in the Government departments in Korba region at the relevant time. Therefore, the income taken by the tribunal cannot be said to be on higher side.

7. In order to prove functional disability, Dr. Ghanshyam Diwan has been examined as A.W.3. This witness has proved the disability certificate as Ex.P-155. He has deposed that though the combined disability percentage was found to be 46.32, yet the percentage of functional disability of the injured person in terms of whole body is 18.52. The whole-body permanent functional disability of 18.52% proved by Doctor (A.W.3) stands uncontroverted. Therefore, the Tribunal has taken the basis of 18.52% disability while assessing the loss of future income.

8. The age of deceased was found to be 53 years. In respect of loss of income, following the principle laid down in **Sarla Verma v. DTC (2009) 6 SCC 121** the Tribunal has correctly applied the multiplier of 11. Based on claimant’s 18.52% disability, the loss of annual income calculated by the Tribunal was Rs.21,846/-. It appears that the Tribunal has inadvertently calculated the net annual income to be Rs.96,114/- by wrongly deducting the income lost towards 18.52% of disability i.e., Rs.21,846/- from annual income of Rs. 1,17,960/-. Applying the multiplier 11 with the residual income, the loss of future income was again wrongly assessed as Rs.10,57,254/-. It further added 10% future prospects i.e., 1,05,725/- thereby the total loss of income was wrongly worked out to Rs.11,62,979/- which cannot be allowed to sustain.

9. A perusal of para 29 of the impugned award shows that the Tribunal made a mathematical error by multiplying the claimant’s remaining residual income instead of his actual income lost by multiplier 11 resulting in an excess award. Therefore, this court is computing the compensation under the head “loss of future income” as per the following table.

Sl.No	Head	Amount Rs.
01.	Monthly Income of deceased as taken by the Tribunal	9,830/-
02.	Annual income Rs.9,830 x 12	1,17,960/-
03.	Future prospects (10%)	11,796/-
04.	Total annual income (Sl.No. 2 + 3)	1,29,756/-
05.	Functional disability 18.52%	24,031/-
06.	Total loss of future income by applying multiplier 11 i.e., 24,031 x 11	2,64,341/-

10. For the foregoing analysis, the claimant is entitled to receive Rs.2,64,341/- under the head “loss of future income” due to disability and not

Rs. 11,62,979/- as worked out by the Tribunal.

11. In respect of treatment expenses, the claimant has produced medical bills/ prescriptions vide Ex.P-6 to 96, Ex.P-97 to 147 and Ex.P-148 to 153 and the Tribunal has fairly granted Rs.1,33,857/- on this head. Besides this, under the other heads the Tribunal has adequately granted Rs.2,00,000/- for physical suffering and mental agony; Rs.20,000/- for special diet ; Rs. 40,000/- for attendant charges; Rs.2,00,000/- for future treatment, attendant charges & special diet and Rs.1,00,000/- for loss of amenities/comforts which cannot be said to be on higher side. Hence, the claimant is entitled to receive a total compensation of **Rs.9,58,198/-** and not 18,56,836/- as awarded by the Tribunal.

12. At this stage, learned counsel submits that in compliance with the order dated 27.03.2026, the appellant Company has already deposited Rs.5,00,000/-. If that be the position, the said amount of Rs.5,00,000/- be adjusted from the total compensation of Rs.9,58,198/- granted by this Court.

13. In view of the above discussion, this appeal is **allowed in part**. The impugned award is modified to the above extent.

Sd/-

Sanjay Kumar Jaiswal
Judge