CGHC010016902023 2026:CGHC:45096

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MAC No. 96 of 2023

1 - Gayatri Bai Bhaina W/o Late Shri Jamuna Lal Bhaina Aged About 32 Years R/o Chhitapadriya, Police Station and Tahsil Baradwar .....Claimant.

2 - Rakesh Kumar Bhaina S/o Late Shri Jamunalal Bhaina Aged About 17 Years Minor Through Natural Guardian Mother Gayatri Bai Bhaina, W/o Late Shri Jamuna Lal Bhaina, Aged About 32 Years, R/o Chhitapadriya, Police Station and Tahsil Baradwar .....Claimants

3 - Chanchal Kumari Bhaina D/o Late Shri Jamunalal Bhaina Aged About 12 Years Minor Through Natural Guardian Mother Gayatri Bai Bhaina, W/o Late Shri Jamuna Lal Bhaina, Aged About 32 Years, R/o Chhitapadriya, Police Station and Tahsil Baradwar, District : Janjgir-Champa, Chhattisgarh. **... Claimants/ Appellants**

versus

1 - Navratan Sidar S/o Chetan Singh Sidar Aged About 39 Years R/o Chhitapadriya, Police Station Baradwar, Tahsil Jaijaipur .....Owner and Driver of Vehicle No. C. G. 11 AY-4233....Non Applicant No.1.

2 - Branch Office The Oriental Insurance Company Ltd. Shanti Nagar Opposite Railway Station Champa .....Insurer of Vehicle No. C. G. 11AY-4233 .....N. A. No. 2. **... Respondents**

For the Appellants : Mr. A. L. Singraul, Advocate
For respondent no.1 : None

For respondent no.2 : Mr. Azad Siddiqui, Advocate

(Hon'ble Shri Justice Sanjay Kumar Jaiswal)

Order on Board

26.10.2026

1. This appeal under Section 173 of Motor Vehicles Act, 1988 (for short "MV Act") has been filed seeking enhancement of compensation, challenging the impugned award dated 14.10.2022 passed by the Ist Additional Motor Accident Claims Tribunal, Janjgir Chhattisgarh in Claim Case No. 21/2022 whereby a total compensation of Rs.10,85,000/- has been awarded.

2. As per the facts pleaded in claim application filed under Section 166 of the MV Act, deceased Jamunalal Bhaina died in a motor accident took place on 10.12.2021 due to rash and negligent driving of respondent no.1 who drove the offending Tractor Thresher No. C.G. 11-AY-4233. Appellant No.1 is the widow and appellants 2 & 3 are minor children of the deceased. They being legal heirs have filed claim application u/s 166 of the M.V. Act, seeking a total compensation of Rs. 49,20,000/-.

3. Learned counsel for the appellants submits that the income taken by the Tribunal is on lower side and the amounts granted under the other conventional heads are also meagre, thereby, just compensation has not been awarded. He prays that the compensation awarded by the Claims Tribunal may suitably be enhanced. He further submits that the since the offending vehicle was insured with respondent no.2, pay and recover order be passed in this case.

4. Learned counsel for respondent no.3/Insurer submits that there was breach of Insurance Policy, therefore, the liability stands fastened on the owner/driver. He further submits the Tribunal has granted adequate compensation and the impugned award needs no interference.

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

6. The claimants pleaded that the deceased was skilled labour and was earning monthly income of Rs.12,000/-. However, the Tribunal took the income of deceased as Rs. 6000/- per month, which seems to be on lower side. In absence of any cogent reliable evidence regarding the nature of job and income of deceased and looking to the prevalent market rates, it would be appropriate to take his monthly income to be Rs.9,280/- treating him as unskilled labour as per the the Chhattisgarh Minimum Wages applicable at the time of accident occurred on 10.12.2021.

7. Since the age of deceased was found to be 36 years and there are 3 dependents, following the case-law laid down by Supreme Court, the Tribunal has rightly added 40% future prospectus, deducted 1/3rd towards personal expenses and applied multiplier 15 which cannot be said to be unsustainable.

8. The Tribunal has awarded a joint lumpsum of Rs.77,000/- under the other conventional heads like loss of consortium; loss of estate and funeral expenses which appears to be meagre. As regards consortium, it appears that a lumpsum amount (44,000/-) has been granted for all the 3 claimants, which cannot be allowed to sustain. Under Motor Accident Claims, the Supreme Court has established that every individual dependent-claimant is entitled to a separate compensation for the loss of consortium or love and affection. There are 3 claimants in this case. Thus each claimant is entitled to Rs.44,000/- separately and the total comes to Rs.1,32000/-- under this specific head.

9. Thus, 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**
1.	Total loss of dependency	**10,08,000/-,**	Rs. **9,280 X 12** = **1,11,360/-** plus Future Prospectus- **40%** i.e., 44,544/- = **1,55,904/-** minus 1/3rd deduction of personal expenses i.e., **51,968/-** = **1,03,936** x **15** multiplier = **15,59,040/-**
2.	Loss of estate		**16,500/-**
3.	Funeral expenses		**16,500/-**
4.	Loss of consortium		44,000 x 3 claimants **1,32,000/-**
5.	Lumpsum granted under other heads at Sl.Nos.2, 3 & 4	**77,000/-**	
		10,85,000/-	**17,24,040/-**

10. In view of the aforesaid analysis, the amount of compensation of Rs. 10,85,000/- awarded by the Claims Tribunal is enhanced to Rs.17,24,040/-. Hence, after deducting the amount of Rs. 10,85,000/- the appellants are held entitled for an additional sum of **Rs.6,39,040/-.** The additional amount of compensation shall carry interest @ 6% per annum from the date of filing claim application before the Tribunal till its realization. Rest of the conditions of the impugned award shall remain intact.

11. In this case, considering the evidence placed on record, the Tribunal has found that at the time of accident, the offending vehicle was driven by respondent no.1 without there being valid licence as the same was not produced by the claimants, therefore, there was breach of terms of insurance policy and as such the liability stands fastened on the driver/owner. However, it is not in dispute that the offending vehicle was insured with the appellant/Insurance Company. In the matter of **Rama Bai v. M/s Amit Minerals *through* Incharge Officer/Competent Officer 2025 SCC OnLine SC 2067** the Supreme Court held that even if there is a breach of a policy condition due to lack of insurance policy, the insurance company is initially required to pay the compensation award to the third-party claimant, with the liberty to subsequently recover the entire amount from the insured vehicle owner. In that view of the matter and taking note of the facts and circumstances of the present case, particularly the fact that at the time of accident the vehicle was insured with Insurance Company, the insurer is directed to first pay the compensation and thereafter recover the same from owner/driver (respondent no.1).

12. In the result, this appeal is **allowed in part** and the impugned award is modified to the extent as indicated hereinabove.

Sd/-

Sanjay Kumar Jaiswal
Judge

Rao

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