CGHC010019902016 2026:CGHC:46080

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HIGH COURT OF CHHATTISGARH AT BILASPUR

THE DATE WHEN THE CASE IS RESERVED	THE DATE WHEN THE JUDGMENT IS PRONOUNCED	THE DATE WHEN THE JUDGMENT IS UPLOADED ON THE WEBSITE	
		Operative	**Full**
16.10.2026	30.10.2026		30.10.2026

MAC No. 641 of 2016

1 - Doomer Dhar S/o Raghu, Aged About 55 Years Caste Bhatra, R/o Village Dhanpunji Chandli, Orissa

2 - Smt. Gurwari, W/o Doomer Dhar, Aged About 50 Years Caste Bhatra, R/o Village Dhanpunji Chandli, Orissa

3 - Kamla, W/o Late Harishchand, Aged About 24 Years Caste Bhatra, R/o Village Dhanpunji Chandli Orissa,

4 - Limsar, S/o Late Harishchand, Aged About 6 Years Minor Through Her Natural Guardian Kamla W/o Late Harishchand, Caste Bhatra, R/o Village Dhanpunji Chandli Orissa,

5 - Dhaneshwar, S/o Late Harishchand, Aged About 6 Years Minor Through Her Natural Guardian Kamla W/o Late Harishchand, Caste Bhatra, R/o Village Dhanpunji Chandli Orissa

... Appellants/Claimants

versus

1 - Dhan Singh S/o Ganesh, Aged About 35 Years R/o Village Korta, Bakawand District Bastar, Chhattisgarh

2 – Sarikhi Ram, S/o Fakira Ram, Aged About 55 Years R/o Village Manjhi Dhanua Koshagumda, Tahsil Koranga, District Navrangpur, Orissa

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3 - Cholamandalam M. S. General Insurance Company Ltd. II Floor, Simran Tower, L.I.C. Building, Pandri, District Raipur Chhattisgarh.

... Respondents

For Appellants	**:**	Mr. Santosh Bharat, Advocate
For Respondent No.3	**:**	Mr. Ghanshyam Patel, Advocate

({Hon'ble Mr. Justice Santosh Sharma})

C A V Judgment

1. This appeal under Section 173 of the Motor Vehicles Act, 1988 (for short the "Act of 1988") has been preferred by the appellants/claimants seeking enhancement of the amount of compensation, challenging the impugned award dated 07.09.2015 passed in Claim Case No.86/2015, whereby the learned Claims Tribunal awarded total compensation of Rs.5,51,000/- to the claimants along with interest @ 9% p.a. from the date of filing of the claim petition till its realization.

2. The case of the appellants, as pleaded in the claim petition, is that on 09.01.2015, they were returning to their native village, Chandli, (Orissa), after celebrating the *Diari* festival at the house of a relative in village Rajnagar. Deceased Harishchandra, along with Umesh and Sudhir, was travelling on motorcycle bearing registration No. CG-17-KC-2743, while the remaining claimants were following them in an autorickshaw. At about 5:00 p.m., near the forest bend between Kosmi and Korta, a pickup vehicle bearing registration No. OD-24-7915, driven by respondent No. 1, Dhansingh, allegedly at a high speed and in a rash and negligent manner, collided head-on with the motorcycle. As a result of the accident, Harishchandra, Umesh and Sudhir sustained injuries. Harishchandra succumbed to his injuries while being taken to the Community Health

Centre, Bakawand, whereas Sudhir sustained a fracture of his left hand. In connection with the said accident, Crime No.8/2015 was registered at Police Outpost Bakawand, Distt. Bastar for offence punishable under Sections 279, 337,338, 304(A) Indian Penal Code. Upon completion of investigation, a charge sheet was filed against respndent No.1 before the competent criminal Court. At the time of accident, the offending vehicle was owned by non-applicant No.2 Sarikhi Ram and insured with non-applicant No. 3 Cholamandalam M.S. General Insurance Co. Ltd.

3. The claimants filed a claim petition under Section 166 of the Motor Vehicles Act, claiming total compensation of Rs.34,05,500/-, pleading that the deceased was approximately 24–25 years of age and earned ₹6,000/- per month by working as a labourer. They claimed compensation towards loss of dependency, loss of consortium, loss of parental care and affection, funeral expenses and other conventional heads.

4. Respondent Nos. 1 and 2, namely the driver and owner of the offending pickup vehicle, contested the claims, alleging that the accident occurred due to the rash and negligent driving of the motorcycle rider. They further pleaded that three persons were travelling on the motorcycle and that they were under the influence of alcohol after celebrating the festival. It was also contended that the motorcycle rider did not possess a valid and effective driving licence and that the owner and insurer of the motorcycle were necessary parties. The respondents maintained that the offending pickup vehicle was duly insured with respondent No. 3, the insurance company, on the date of the accident.

5. The insurance company also contested the claims, disputing its liability on the grounds that the accident resulted from the negligence of

the motorcycle rider, the motorcycle was carrying three persons in violation of the statutory provisions, and the driver of the offending vehicle did not possess a valid and effective driving licence. It further alleged breach of the terms and conditions of the insurance policy and sought to avoid liability for payment of compensation.

6. The Tribunal upon examining the oral and documentary evidence, held that the accident occurred due to the rash and negligent driving of the pickup vehicle by respondent No. 1, resulting in the death of Harishchandra. The Tribunal rejected the pleas of contributory negligence and breach of insurance policy conditions for want of cogent evidence and held respondent No. 3, the insurer, liable to pay compensation. The Tribunal assessed the deceased's monthly income at ₹3,000/-, deducted one-fourth towards personal expenses, applied a multiplier of 18, and awarded ₹4,86,000/- towards loss of dependency, along with other conventional heads, thereby granting total compensation of ₹5,51,000/-.

7. Learned counsel appearing on behalf of the appellants/claimants submits that the impugned award passed by the learned Tribunal is contrary to the evidence available on record and the settled principles governing the assessment of compensation under the Motor Vehicles Act, 1988. It is contended that the learned Tribunal has erred in assessing the monthly income of the deceased at ₹3,000/- instead of ₹6,000/-, as claimed by the appellants, thereby substantially reduced the amount of compensation payable to them. It is further submitted that the Tribunal has erroneously calculated the loss of dependency and that the deduction towards the personal and living expenses of the deceased, as well as the

assessment of the annual dependency, which require reconsideration in accordance with the applicable legal principles. Learned counsel further contends that the amounts awarded under the conventional heads of funeral expenses and loss of estate are inadequate and that the Tribunal has erred in not awarding compensation towards future prospects of the deceased. It is also argued that the Tribunal has unjustifiably declined to recognise appellant No. 1 as a dependent of the deceased and has failed to award compensation under the appropriate head for loss of love and affection, as claimed. On the aforesaid grounds, learned counsel for the appellants prays that the impugned award be suitably modified and the amount of compensation be enhanced in accordance with law.

8. On the other hand, learned counsel appearing for respondent No.3/Insurance company supporting the impugned award submitted that the Tribunal considering all the relevant aspects of the matter has rightly passed the award which warrants no interference by this Court.

9. Heard learned counsel for the parties and perused the material available on record.

10. In a motor accident claim case, what is important is that the compensation to be awarded by the Courts/Tribunals should be just and proper compensation in the facts and circumstances of the case, it should neither be a meager amount or a bonanza.

11. Now this Court shall examine as to whether the compensation of Rs.5,51,000/- awarded by the Tribunal is just and proper compensation in the given facts and circumstances of the case?

12. So far as the source of income of the deceased is concerned, the Tribunal for want of any oral or documentary evidence, assessed the same as ₹3000/- per month on notional basis. The claimants pleaded that the deceased was working as labourer and thereby earning ₹6000/- but no evidence in support thereof could be adduced. However, considering that the accident occurred on 09.01.2015 and that the monthly income of an unskilled labourer is stated to have been ₹5,517/- at the relevant time, this Court considers it appropriate to assess the monthly income of the deceased at ₹5,517/-. Accordingly, his annual income comes to ₹66,204/- (₹5,517 × 12). The Tribunal has not awarded any amount in future prospects, whereas it ought to have considered the verdicts of the Hon'ble Supreme Court in the cases of ***National Insurance Company Limited v. Pranay Sethi and Others*****, (2017) 16 SCC 680** and ***Sarla Verma and Others v. Delhi Transport Corporation and Another*****, (2009) 6 SCC 121**. Hence, the above issue required to be considered. In view of the principles laid down by the Hon'ble Supreme Court in ***Pranay Sethi (Supra)***, an addition of 40% towards future prospects is warranted, considering that the deceased was 25 years of age and was earning as a labourer, the amount towards future prospects comes to ₹26,481.60 (₹66,204 × 40%), the annual income comes to ₹92,685.60. The amount towards personal and living expenses of the deceased is required to be deducted in accordance with the principles laid down in ***Sarla Verma (supra)*****,** as approved in ***Pranay Sethi* (supra)**. Considering that the deceased was married and left behind four dependants, one-fourth (¼) of his annual income, inclusive of future prospects, is deducted towards his personal and living expenses, which comes to ₹23,171.40 (₹92,685.60 ×

¼). Accordingly, the annual contribution to the family comes to ₹69,514.20 (₹92,685.60 − ₹23,171.40). Applying the multiplier of 18, as adopted by the Tribunal, the total compensation payable towards loss of dependency comes to ₹12,51,255.60 (₹69,514.20 × 18).

13. Apart from the loss of dependency, the Tribunal awarded ₹50,000/- towards loss of estate, ₹5,000/- towards funeral expenses and ₹10,000/- towards loss of consortium. However, in the light of **Pranay Sethi (Supra),** the compensation of the above heads required to be modified, thus, the compensation awarded under the aforesaid conventional heads requires modification. Accordingly, the compensation towards loss of estate is enhanced to ₹15,000/- for each of the four claimants, aggregating to ₹60,000/- (₹15,000/- × 4). The compensation towards funeral expenses is also enhanced to ₹15,000/- as against ₹5,000/- awarded by the Tribunal. Further, the compensation towards loss of consortium is enhanced to ₹40,000/- for each of the four eligible claimants, aggregating to ₹1,60,000/- (₹40,000/- × 4). Thus, the claimants are entitled for compensation in the following manner:-

Sl. No.	**Head of compensation**	**Amount awarded by the Tribunal**	**Amount awarded by this Court**
1.	Loss of dependency	₹4,86,000/-	₹12,51,255.60
2.	Loss of estate	₹50,000/-	₹60,000/-
3.	Funeral expenses	₹5,000/-	₹15,000/-
4.	Loss of consortium	₹10,000/-	₹1,60,000/-
	Total compensation	**₹5,51,000/-**	**₹14,86,255.60**

14. In view of the foregoing discussion, the appellants/claimants are held entitled to total compensation of **₹14,86,255.60,** as against ₹5,51,000/- awarded by the Tribunal. The enhanced amount of compensation shall carry

interest at the rate of 9% per annum, as awarded by the Tribunal, from the date of filing of the claim petition till its realization. The remaining terms and conditions of the impugned award shall remain unaltered, except to the extent modified herein.

15. Consequently, the appeal is **partly allowed**. The impugned award dated 07.09.2015 passed by the learned Tribunal in Claim Case No. 86/2015 is modified to the extent indicated above. The parties shall bear their own costs.

Sd/-

(Santosh Sharma)
Judge

Bini