SHUBHAM SINGH RAGHUVANSHI
Digitally signed by SHUBHAM SINGH RAGHUVANSHI
Date: 2026.10.27 17:19:46 +0530

CGHC010053552024 2026:CGHC:45152

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MAC No. 314 of 2024

Branch Manager Oriental Insurance Co. Ltd. Branch Office Nagar Ghadi Chowk Dhamtari District Dhamtari, C.G. Through Legal Hub Incharge Oriental Insurance Co. Ltd., Divisional Office, Opposite Rajeev Plazza Near Old Bus Stand Bilaspur, Dist. Bilaspur, C.G.

... Appellant

versus

1 - Mahendra Kumar Vatti S/o Late Ramgulal Vatti Aged About 34 Years R/o. Village Old Naka Ward No. 4, Charama P.S. And Tahsil Charama District North Bastar Kanker, C.G. (Claimant)

2 - Motilal Paswan S/o Late Badrilal Paswan Aged About 41 Years R/o Village Parpanaka Kangoli Post Jagdalpur P.S. And Tahsil Jagdalpur District Bastar, C.G. (Driver)

3 - Bhagwan Das Gandhi S/o Rameshwar Lal Gandhi Aged About 44 Years R/o Danteshwari Ward No. 20 Jagdalpur P.S. And Tahsil Jagdalpur District Bastar, C.G. (Owner)

--- **Respondent(s)**

For Appellant : Mr. Pravin Ku. Tulsyan, Advocate

For Respondents No.1 : Mr. Praveen Dhurandhar, Advocate

Hon'ble Shri Justice Sanjay Kumar Jaiswal
Judgment on Board

(26.10.2026)

1. This is an insurer's appeal under Section 173 (2) of the Motor Vehicles Act, 1988 challenging the award dated 19.12.2023 passed by Motor Accident Claims Tribunal North Bastar Kanker (C.G.) in Claim Case No.57/2021.

2. The gist of claim before the Claims Tribunal was that on 10.10.2020 at about 7:30 PM, deceased Dilip Watti was returning from Ratesara towards Charama to his home, driving his motorcycle bearing registration No. CG-19 BJ-5815 slowly on his correct side. As he reached near Manoj Dhaba on the main road, National Highway No. 30, the driver of Truck bearing No. CG-17 H-1976 (in short 'the offending vehicle'), i.e., Respondent No.2 herein, had parked the said vehicle in the middle of the main road, from Ratesara towards Charama, in darkness without giving any indicator, and had gone away. Due to darkness, deceased Dilip Watti, along with his motorcycle, collided with the parked offending vehicle. Due to the said accident, Dilip Watti sustained grievous injuries on his head, as a result of which he died on the spot. On the report of the incident being lodged at concerned Police Station, crime was registered.

3. At the time of the accident, the deceased was a healthy person aged 38 years. The claimant (respondent No. 1), who is the brother of the deceased, had filed a claim application before the learned Claims Tribunal claiming compensation of Rs. 41,00,000/- (Rupees Forty One Lakhs). After a close scrutiny of the evidence available on record, the learned Claims Tribunal found no contributory negligence on the part of the deceased and also found no breach of policy

conditions. Vide the impugned award, the learned Tribunal awarded total compensation of Rs. 12,05,960/- (Rupees Twelve Lakhs Five Thousand Nine Hundred Sixty) along with interest @ 9% per annum from the date of filing of the claim application till its realization, in favour of respondent No. 1, the legal representative of the deceased, towards his irreparable loss, and held the Insurance Company liable for payment of the same. Being aggrieved by the said award, the present appeal has been filed by the Insurance Company.

4. The first argument advanced by learned counsel appearing for the appellant / Insurance Company is that the learned Tribunal has committed a serious error of law, as well as of fact, by ignoring that the driver and owner did not produce the effective authorization letter on the date of the accident, which is required for a National Permit for plying the vehicle as per the provisions of the Motor Vehicles Act. Hence, the permit could not have been treated as valid on the date of the accident. Therefore, the finding recorded by the learned Tribunal is perverse, contrary to the documentary evidence available on record, and is legally unsustainable. The appellant is, consequently, entitled to be exonerated from the liability to satisfy the award, as there was no valid permit in force on the date of the accident.

5. He next submits that the deceased had consumed alcohol and had collided with the offending vehicle from behind, therefore, the deceased was also liable for the accident. So far as maintainability is concerned, learned counsel submits that the deceased was 38 years of age. The claimant Mahendra is the brother of the deceased. Both the brothers were residing separately. The claimant Mahendra was not dependent on the deceased, therefore, the claim

petition is not maintainable. In support of his argument, he relies of the judgment passed by the Hon'ble Supreme Court in the matter of **The New India Assurance Company Limited Vs. Anand Pal and Others, SLP (Civil) No. 7805/2022**, decided on **04.12.2023**, wherein it has been held that a claim petition filed by a person who is not a dependent of the deceased is not maintainable.

6. On the other hand, learned counsel appearing for the claimant submits that under Section 166 of the Motor Vehicles Act, it is not necessary to be a dependent, but being a legal heir is sufficient. He further submits that in the present case, there was no contributory negligence on the part of the deceased. No eye-witness has been examined in this case. At the time of the accident, the offending vehicle was parked in the middle of the road without any indicator. There was no negligence on the part of the deceased. The charge-sheet has also been filed against the driver of the offending vehicle. He next submits that he has filed a cross-objection. The learned Tribunal has assessed the income of the deceased on the lower side, which may be enhanced. Hence, the appeal filed by the Insurance Company may be rejected and the cross-objection may be allowed, and the compensation awarded by the Tribunal may be enhanced suitably.

7. I have heard learned counsel for the parties, considered their rival submissions made hereinabove and went through the record with utmost circumspection.

8. Nilesh Paikra (NAW-2), Assistant Manager, Oriental Insurance Company, and Paleshwar Sahu (NAW-1), Assistant Grade-2, Regional Transport Office, Jagdalpur, were examined, who have proved Ex. D-1C, the Permit

Register, and have stated that on the date of the accident, the offending vehicle did have a permit, but there was no authorization. The contention advanced on behalf of the appellant is that the permit of the offending vehicle had not been duly authorized and, therefore, the vehicle was being plied in contravention of the provisions of law as well as the terms and conditions of the insurance policy. The said contention, however, cannot be accepted in view of the law laid down by the Hon'ble Supreme Court in **Shri Binod Kumar Singh v. National Insurance Company Ltd., SLP (Civil) No.13060 of 2020**, wherein, in paragraph 8, it has been observed as under:-

> *"8. This Court has carefully gone through the permit which is on record and the National Permit is certainly valid up to 13.10.2017. The authorization fee was required to be paid only when the truck was moving out of State of Bihar as it was registered in the State of Bihar and the truck caught fire on account of short- circuit on 08.06.2014 in the State of Bihar itself and, therefore, the respondent company could not have repudiated the claim on such a frivolous ground. The permit in question was issued by the competent authority in Bihar and, therefore, there was no requirement of paying authorization fee when the truck was being used in the State of Bihar and as per the terms and conditions of the National Permit, authorization fee was required to be paid only when the truck was moving out of State of Bihar. Thus, in the considered opinion of this Court, the appellant was certainly entitled for the insurance claim as held by the State Commission and, therefore, the order passed by the National Commission, dated 19.08.2020, deserves to be set*

aside and is accordingly set aside. The respondent National Insurance Company is directed to process the claim of the appellant and to pay the amount to the appellant within a period of 60 days from today. It is needless to mention that the claim became due in the year 2014and it was repudiated by the respondent National Insurance Company in the year 2014 itself. The order of the State Commission allowing the claim was passed in the year 2017 which was reversed by the National Commission in the year 2020. Therefore, in the considered opinion of this Court, the appellant was not only entitled for the entire claim amount right from the date it became due but he is also entitled for interest from the date of the complaint made before State Commission till the date, the amount is actually paid to him. The appellant shall be entitled to interest @ 9% per annum and the same with the proposed amount be paid positively within 60 days from today."

9. In the present case, the offending vehicle was registered with the Transport Authority at Jagdalpur and was being operated within the territorial limits of the State of Chhattisgarh. The accident also occurred within the State of Chhattisgarh. In such circumstances, in view of the law laid down by the Hon'ble Supreme Court in **Shri Binod Kumar Singh** (supra), no separate authorization of the permit was required for plying the vehicle within the State of Chhattisgarh. Consequently, the alleged absence of such authorization cannot be treated as a breach of the terms and conditions of the insurance policy so as to absolve the appellant-Insurance Company of its liability to indemnify the insured.

10. So far as the issue of contributory negligence is

concerned: The accident occurred on 10.10.2020 at about 7:30 PM. It was dark at that time. The claimant's case is that the offending vehicle was parked in the middle of the road and the charge-sheet has been filed against the driver of the offending vehicle. However, the claimant's own witness, Sanjay Pudo (AW2), friend of the deceased, who was examined before the learned Tribunal, has admitted that the deceased had consumed liquor at the time of the accident. He has further admitted that the deceased dashed against the vehicle standing on the side of the road from behind and that the deceased was not wearing a helmet at the time of the accident, that is why he died. In paragraph 9 of his statement, he has further admitted that the place of the incident was a National Highway, there was sufficient light on the road for the vehicles passing by, and had the deceased been careful, the accident would not have occurred. Thus, from the statement of the claimant's own witness, it is established that the deceased was also negligent. He was under the influence of liquor, was driving without a helmet and had dashed against the stationary vehicle from behind. In this situation, this Court is of the considered opinion that the deceased had also contributed to the accident. Considering the facts and circumstances of the case and the admissions made by the claimant's witness, the contributory negligence of the deceased is assessed at 50% and that of the driver of the offending vehicle is also assessed at 50%.

11. So far as the question of maintainability / dependency is concerned: It is undisputed that the deceased Dilip was unmarried and was aged about 38 years at the time of the accident. The claimant Mahendra is the younger brother of the deceased and is married. The friend of the deceased,

namely Sanjay Pudo, who has been examined on behalf of the claimant, himself has admitted that the claimant Mahendra was residing separately with his wife and children, and the deceased Dilip was residing separately. He has further admitted that the claimant Mahendra was not dependent upon the deceased. The Hon'ble Supreme Court in the matter of **Anand Pal** (Supra), in paragraph 7, has held as under:-

> *"7. On the above, it is necessary for us to be conscious that there are two family registers. This would indicate that the victim resided separately as was noted by the Motor Accident Claims Tribunal. The siblings of the victim were older and were married with their own respective families. In these circumstances, they being dependent on the victim's earnings is unlikely particularly when the victim resided separately."*

12. In the present case also, the deceased and the claimant, who are siblings, were residing separately. The deceased was unmarried, whereas the claimant was married and was residing with his wife and children. In such facts and circumstances, in view of the law laid down by the Hon'ble Apex Court in Anand Pal (supra), the claimant cannot be treated as a dependent of the deceased. Therefore, awarding compensation on the basis of dependency by applying multiplier is not found to be justified. The claimant is entitled only to compensation under the conventional heads.

13. In view of the law laid down by the Hon'ble Supreme Court in **National Insurance Company Ltd. Vs. Pranay Sethi, (2017) 16 SCC 680**, and as the accident occurred in the year 2020, the claimant is entitled to the following

amounts under the conventional heads:-

1	Loss of estate	Rs. 16,500/-
2.	Funeral expenses	Rs. 16,500/-
3.	Loss of consortium	Rs. 44,000/-
	Total	**Rs. 77,000/-**

14. Since the aforesaid amount i.e. Rs. 77,000/- is being awarded only under the conventional heads, the principle of contributory negligence is not being applied in the present case. The offending vehicle was insured with the appellant/Insurance Company at the time of the accident. Therefore, the appellant/Insurance Company shall bear the aforesaid amount of **Rs. 77,000/-** in full, in place of the award amount i.e. Rs. 12,05,960/- as awarded by the Claims Tribunal. The amount of Rs.77,000/- shall carry interest @ 9% per annum from filing of the claim application before the Claims Tribunal till its realization. Rest of the conditions of the impugned award shall remain intact.

15. In the result, the appeal is **partly allowed** and the impugned award is modified to the extent as indicated herein-above.

Sd/-
(Sanjay Kumar Jaiswal)
Judge

-Shubham