CGHC010090132023 2026:CGHC:43437

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MAC No. 495 of 2023

1 - Smt. Annu Bai W/o Dushyant Kumar Aged About 47 Years R/o Shankardaha, Post, Tahsil And District- Dhamtari (C.G.)

2 - Dushyant Kumar S/o Late Alakh Ram Sahu Aged About 50 Years R/o Shankardaha, Post, Tahsil And District- Dhamtari, Chhattisgarh

3 - Ku. Deepti Sahu D/o Dushyant Kumar Aged About 17 Years - Minor Through Her Natural Guardian- Father- Dushyant Kumar S/o Late Alakh Ram Sahu R/o Shankardaha, Post, Tahsil And District- Dhamtari, Chhattisgarh ……..**(Claimants)**

... Appellants

versus

1 - Harish S/o Late Ashwani Kumar, Aged About 23 Years Caste Gond, R/o Shankardaha, Post, Tahsil And District- Dhamtari (C.G.).

2 - Rajesh Kumar S/o Shri Rikhabchand Aged About 46 Years R/o Village Bagdahi Dhamtari, Thana And Tahsil Kurud, District : Dhamtari, Chhattisgarh

3 - Divisional Manager Oriental Insurance Co. Ltd. M. B. Trade Center, Balak Chowk, Dhamtari Post And Tahsil And And Thana Dhamtari, District : Dhamtari, Chhattisgarh

... Respondents

For Appellants	:	Mr. Kunal Das, Advocate.
For Respondent Nos. 1&2	:	None
For Respondent No.3	:	Mr. Abhishek Vinod Deshmukh,

Advocate.

Hon'ble Shri Justice Sanjay Kumar Jaiswal
Order on Board

(07.10.2026)

1. Heard on I.A.No.01/2023, an application for condonation of delay in filing the appeal.

2. This is claimants' appeal for enhancement of the award amount and there is 09 days delay in filing the appeal.

3. Upon due consideration and for the reasons mentioned in the application, the same (I.A.No.01/2023) is allowed, and delay of 09 days in filing the appeal is hereby condoned.

4. Also heard on admission.

5. The appeal is admitted for hearing.

6. With the consent of learned counsel for the parties, the appeal is heard finally.

7. 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 29.11.2022, passed in Claim Case No.105/2021, whereby the learned Claims Tribunal has awarded a total sum of Rs.13,54,600/- as compensation for the death of Late Durgesh Kumar, who died in a road accident which took place on 22.12.2019.

8. Brief facts of the case are that on 22.12.2019, deceased, Durgesh, was travelling from Dhamtari towards his home at Shankardah via Sinhawa Chowk along with respondent No. 1. When they reached near Wisdom School, respondent No. 1,

driving the motorcycle bearing registration No. CG-05/H/8120 in a rash and negligent manner, caused the accident. As a result, both the deceased Durgesh and respondent No. 1 fell on the road and deceased Durgesh sustained grievous injuries to his head, chest and leg. Immediately after the accident, the deceased was admitted to Christian Hospital, Dhamtari, from where looking to his deteriorating condition, the doctors referred him to V. Care Hospital, Telibandha, Raipur. During the course of treatment, on 24.12.2019, the deceased succumbed to the grievous injuries sustained in the accident.

9. A claim petition was filed by the appellants/claimants who happen to be the legal heirs (Mother, Father and minor Sister) of the deceased claiming a compensation of Rs.57,00,000/- *inter alia* pleading that the deceased at the relevant time was aged about 21 years, he used to work at a ration shop in the village and earning Rs.300/- per day and Rs.9,000/- per month. That apart, during his free time, he used to do tailoring work of men's garments at home, from which he used to earn approximately Rs.9,000/- per month. Thus, the deceased was earning approximately Rs.2,00,000/- per annum.

10. Pleading of the claimants have, however, been denied by the respondent/insurance company.

11. After evaluating the evidence available on record, the Tribunal has awarded the compensation of Rs.13,54,600/- along with interest @ 06% per annum in favour of the appellants/claimants taking the monthly income of the deceased as Rs.6,000/-, granting 40% addition towards future prospects, applying the multiplier of 18 and deducting 1/3rd towards his personal expenses. Hence, this appeal for enhancement.

12. Learned counsel for the appellants submits that the learned Claims Tribunal has committed error of law in assessing the

monthly income of the deceased. The deceased was a skilled worker and used to do tailoring work at the time of accident i.e. 22.12.2019, and at the relevant time, the minimum wages of a skilled person was Rs.10,000/- per month, but the learned Claims Tribunal, in view of Chhattisgarh Minimum Wages Notification issued by the office of Labour Commissioner, Chhattisgarh for unskilled labour, only accessed the monthly income of deceased at Rs.6,000/-, which considering the date of incident is on lower side. He further submits that the learned Tribunal has not awarded any sum toward consortium and the amount awarded under the conventional heads is on the lower side, which needs to be enhanced suitably.

13. None for respondent Nos. 1 and 2.

14. Mr. Abhishek Vinod Deshmukh, learned counsel for respondent No.3 submits that the deceased was an unmarried person aged about 21 years at the time of the accident. The claimants comprise his mother, father and minor sister, as such, a deduction of 1/2 of the income towards personal and living expenses is required to be made while computing the loss of dependency, and not 1/3rd as taken by the learned Tribunal. Therefore, the impugned award needs suitable modification taking deduction of 1/2 towards personal and living expenses.

15. I have heard learned counsel for the appellants and respondent No.3, perused the record of the Tribunal, including award impugned.

16. In the case at hand, the learned Tribunal has indeed taken the monthly income of the deceased at Rs.6,000/- for unskilled labourer on the date of accident. Considering that the deceased was 20 years of age at the time of accident and was unskilled labour, it would be proper to take his monthly income of Rs.8,600/- as per the Chhattisgarh Minimum Wages Notification issued by

the office of Labour Commissioner, Chhattisgarh for unskilled labour.

17. The deceased was an unmarried person aged about 20 years at the time of the accident. The learned Tribunal assessed 40% towards future prospects and deducted 1/3rd of the income towards the personal and living expenses of the deceased for computing the loss of dependency. Since, the deceased was unmarried and there were 03 claimants (Mother, Father and minor Sister), a 1/2 deduction towards personal and living expenses ought to have been taken but the learned Claims Tribunal deducted 1/3rd towards personal and living expenses, which in view of the law laid down by the Hon'ble Supreme Court in ***National Insurance Company Vs. Pranay Sethi (2017) 16 SCC 680***, needs to be modified. Accordingly, 1/2 of the income of the deceased is deducted towards his personal and living expenses for the purpose of computation of compensation. Therefore, to that extent the impugned award needs to be modified.

18. As regards the conventional heads, the learned Tribunal has awarded a sum of Rs.30,000/- towards loss of estate and Rs.15,000/- towards funeral expenses. However, no amount has been awarded towards loss of consortium. The said award, to the aforesaid extent, requires modification. In view of the settled principles governing the award of compensation under the conventional heads, the claimants are entitled to Rs.15,000/- towards loss of estate and Rs.15,000/- towards funeral expenses. Further, as the deceased is survived by three claimants, namely, his mother, father and minor sister, they are entitled to compensation towards consortium. Accordingly, a sum of Rs.40,000/- each towards consortium, totalling Rs.1,20,000/- for the three claimants, is liable to be awarded under the said head.

19. Thus, in light of the aforesaid discussion and in light of the judgments of the Supreme Court rendered in the matters of

Pranay Sethi (supra), ***Sarla Verma & Ors. Vs. Delhi Transport Corporation & Ors***[1] ***and Magma General Insurance Co. Ltd. v. Nanu Ram @ Chuhru Ram & Ors***[2], this Court is computing the compensation as below:-

Sr. No.	**Heads**	**Compensation awarded by the Tribunal**	**Compensation awarded by this Court**
1	Income	Rs. 6,000x12 = 72,000/-	Rs.8,600x12 = 1,03,200/-
2	Future prospect	(+)40% (i.e. Rs. 28,800/-) = 1,00,800/-	(+)40% (i.e. Rs. 41,280/-) = 1,44,480/-
3	Deduction	(-) 1/3 (i.e. 33,600) = 67,200/-	(-) 1/2 (i.e. 72,240/-) = 72,240/-
4	Multiplier	(x) 18 = 12,09,600/-	(x) 18 = 13,00,320/-
5	Towards Loss of consortium to all the 3 claimants	--	Rs. 40,000x3 = Rs. 1,20,000/-
6	Towards loss of estate	Rs.30,000/-	Rs.15,000/-
7	Towards funeral expenses	Rs.15,000/-	Rs.15,000/-
8	Towards medical expenses	Rs1,00,000/-	Rs.1,00,000/-
	Total	**Rs.13,54,600/-**	**Rs.15,50,320/-**

20. In view of the aforesaid analysis, the amount of compensation of Rs.13,54,600/- awarded by the Claims Tribunal is enhanced to Rs.15,50,320/-. Hence, after deducting the amount of

1(2009) 6 SCC 121

2(2018) 18 SCC 130

Rs.13,54,600/-, the appellants are held entitled for an additional amount of **Rs.1,95,720/-**. The additional amount of compensation shall carry interest @ 6% per annum from the date of filing of the claim application before the Claims Tribunal till its realization. Rest of the conditions of the impugned award shall remain intact.

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

22. The Registry is directed to communicate the claimants in writing "the enhanced amount" in this appeal as against the award made by the concerned Tribunal. The said communication be made in Hindi Deonagri language and the help of paralegal workers may be availed with a co-ordination of Secretary, Legal Aid of the concerned area wherein the claimants resides.

Sd/-
(Sanjay Kumar Jaiswal)
Judge

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VIJAY BHARATRAO
PEKDE
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