CGHC010113482024 2026:CGHC:45855

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MAC No. 711 of 2024

1 - Smt. Chandrika Bai Mandavi W/o Late Jeevan Lal, Aged About 40 Years R/o- Village-Barettola, Police Station and Tahsil - Chhurila, District- Rajnandgaon (C.G.).

2 - Loman Mandavi S/o Late Jeevan Lal Aged About 23 Years R/o- Village-Barettola, Police Station and Tahsil - Chhurila, District- Rajnandgaon (C.G.).

3 - Smt. Rajota Mandavi W/o Late Laduram Aged About 65 Years R/o- Village-Barettola, Police Station And Tahsil - Chhurila, District- Rajnandgaon (C.G.). **... Appellants**

versus

1 - Vineet Kumar Komre S/o Dhruw Kumar Komre R/o Joratarai Post - Bandha Bazar, Police Station- Ambagarh Chowki, District- Rajnandgaon (C.G.).(Driver of Offeding Bus Bearing Registration No. CG-08- AK- 9902).

2 - Vipin Yadav S/on- Prakash Yadav, R/o- Village- Ghoghre, P.S.- Chhuria, District- Rajnandgaon (C.G.).(Owner of Offeding Bus Bearing Registration No. CG-08- AK- 9902)

3 - Branch Manager, National Insurance Company Limited, New Bus Stand, Rajnandgaon (C.G.). **... Respondents**

For the appellants	:	Ms. Deeksha Jaiswal, Advocate
For Respondents 1 & 2	:	Mr. Rakesh Kumar Thakur, Advocate
For respondent no.3	:	Mr. Akash Shrivastava, Advocate

(Hon'ble Shri Justice Sanjay Kumar Jaiswal)

Order on Board

29.10.2026

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 07.12.2023 passed by the learned Additional Motor Accident Claims Tribunal, Rajnandgaon, Chhattisgarh in Claim Case No. 40/2020 whereby a total compensation of Rs. 11,95,000/- has been granted to the claimants.

2. As per the facts pleaded in claim application filed under Section 166 of the MV Act, deceased Jeevanlal Mandavi died in a motor accident occurred on 15.12.2019 due to rash and negligent driving of respondent no.1 who drove the offending Bus No. C.G. 04-DS/0810 and hit the motor cycle of the deceased. Appellant No.1 is the widow, appellant no. 2 is son and appellant no.3 is mother of deceased. During the pendency of claim case, another claimant-son Trilok Mandavi died, therefore, his name was deleted. The claimants being legal heirs have filed claim application u/s 166 of the M.V. Act, seeking a total compensation of Rs.47,50,000/-.

3(i). Learned counsel for the appellants submits that the award passed by the Tribunal is on lower side thereby just compensation has not been awarded. She prays that the instant appeal be allowed and the compensation awarded by the Claims Tribunal may suitably be enhanced.

(ii) She also submits that because of breach of policy found by the Tribunal, the liability stands fastened on the owner/respondent no.2 and since the offending vehicle got insured with respondents no.3, she prays that principle of pay and recover be made applicable 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.

6. The claimants pleaded that the deceased was earning monthly income of Rs.30,000/- by undertaking the work of tiles contract. In absence of any cogent reliable evidence regarding the nature of job and income of deceased, the Tribunal has rightly taken his income to be Rs.8600/- per month treating him as unskilled labour as per the the Minimum Wage Rates applicable in the State.

7. Since the age of deceased was found to be 46 years and there are 3 claimants, following the case-law laid down by Supreme Court, the Tribunal has rightly added 25% future prospectus, deducted 1/3rd towards personal expenses and applied multiplier 14 which cannot be said to be unsustainable.

8. The Tribunal has awarded a joint lumpsum of Rs.77,000/- under the other conventional heads by following the principle of 10% automatic enhancement. Therefore, the amounts awarded under the loss of estate (Rs.16,500/-) and funeral expenses (Rs.16,500/-) cannot be said to be on lower side.

9. As regards consortium, it appears that a lumpsum amount (44,000/-) has been granted for all the 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.1,32,000/- under this specific head.

10. 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	**11,18,000/-**	**11,18,000/-** (unchanged)
2,	Loss of estate		**16,500/-**
3.	Funeral expenses		**16,500/-**
4.	Loss of consortium		(44000 x 3 Claimants) **1,32,000/-**
5.	Joint lumpsum granted by the Tribunal under other heads as stated at Sl.Nos.2, 3 & 4.	**77,000/-**	
	Total Rs.	**11,95,000/-**	**12,83,000/-**

11. In view of the aforesaid analysis, the amount of compensation of Rs. 11,95,000/-awarded by the Claims Tribunal is enhanced to Rs.12,83,000/- Hence, after deducting the amount of Rs. 11,95,000/- the appellants are held entitled for an additional sum of Rs.88,000/-. 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.

12. In this case, considering the evidence placed on record, the Tribunal has found that at the time of accident, the offending bus was driven without valid permit, therefore, there was breach of terms of insurance policy. Hence the liability stands fastened on respondent no.2/owner. However, it is not disputed that at the time of accident, the the offending vehicle was insured with respondents no.3.

13. Considering the dictum laid down by the Hon'ble Supreme Court in cases of ***Amrit Paul Singh Versus Tata AIG General Insurance Company Ltd (2018) 7 SCC 558*** and particularly the fact that at the time of accident the vehicle was insured with Insurance Company, in order to protect the third party interest, this Court is inclined to direct the Insurance Company to comply with the principle of pay and recover. Accordingly, it is directed that respondent no.3 shall first pay the amount of compensation to the claimants and thereafter recover the same from the owner.

14. Accordingly, 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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