CGHC010196342023 2026:CGHC:45801

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MAC No. 1027 of 2023

1 - The Oriental Insurance Company Ltd. Branch Office Station Road Naya Deepak Nagar, Malviya Nagar, Durg, District Durg Chhattisgarh. (Insurance Company Of Offending Vehicle Truck No. CG-07-CA-5764)

--- **Appellant**

versus

1 - Radhe Sori (Minor), S/o - Chetan Sori, Aged About 2 Years Represented Through Father And Natural Guardian Shri Chetan Sori S/o -Shivkumar Sori, Aged 25 Years, R/o Village Mujalgondi, Police Station Gurur, District Balod Chhattisgarh. …….**Claimant**

2 - Yagyanval S/o Ghanshyam Nirmal, Aged About 24 Years R/o Village Mahkakhurd, Police Station Utai. District Durg Chhattisgarh. (**Driver** Of The Offending Vehicle Tuck No. CG-07-CA-5764)

3 - Zakir Ahmed Kazi S/o Late Amiruddin Kazi. R/o Ayappa Nagar, Smriti Nagar, Chowki, Police Station Supela, Bhilai District Durg Chhattisgarh. (Registered **Owner** Of The Offending Vehicle Tuck No. CG-07-CA-5764)

--- **Respondents**

And

MAC No. 548 of 2023

1 - Radhe Sori S/o Chetan Sori Aged About 2 Years Minor Through Natural Guardian Father Shri Chetan Sori S/o Shivkumar Sori, Aged

About 25 Years, R/o Village - Mujalgondi, Thana - Gurur,, District : Balod, Chhattisgarh

---Appellant

Versus

1 - Yagyaval S/o Ghanshyam Nirmal Aged About 24 Years R/o Village - Mahkakhurd, Thana - Utai, District : Durg, Chhattisgarh

2 - Zakir Ahmad Kazi S/o Late Amiruddin Kazi R/o Ayappa Nagar, Smriti Nagar Chauki, Thana Supela, Bhilai,, District : Durg, Chhattisgarh

3 - Branch Manager Oriental Insurance Company Limited, Branch Office - Station Road, Naya Deepak Nagar, Malviya Nagar, Durg, District : Durg, Chhattisgarh

--- Respondents

For Appellant in MAC No.1027/2023 and for Respondent No.3 in MAC No.548/2023	**:**	Mr. Akash Shrivastava, Advocate
For Appellant in MAC No.548/2023 and for Respondent No.1 in 1027/2023	**:**	Mr. Samir Singh, Advocate
For Respondent No. 2 & 3 in MAC No. 1027/2023 and for Respondent Nos.1& 2 in MAC No.548/2023	**:**	None

Hon'ble Shri Justice Sanjay Kumar Jaiswal
Order on Board

(29.10.2026)

1. In compliance of this Court’s order dated 12.10.2026, Mr. Jitendra Kumar Sinha, Manager, Oriental Insurance Company Ltd, appeared before this Court. His presence is marked.

2. Since the aforesaid appeals arise out of the same accident and the same award, they are being disposed of by this common order.

3. **MAC No.548/2023** has been filed by the **appellant/claimant** under Section 173 of the Motor Vehicles Act, 1988 (for short “Act of 1988”) seeking enhancement in the compensation amount and **MAC No.1027/2023** has been filed by the **Insurance Company** against the impugned award dated 17.02.2023 passed by the Motor Accident Claims Tribunal, Balod, District Balod, Chhattisgarh (for short “Claims Tribunal”) in Claim Case No. 13/2020, whereby the Claims Tribunal allowed the claimant’s application and awarded Rs.9,55,035/- along with interest @ 9% per annum for the injuries sustained to the claimant Radhe Sori, fastening liability upon the Insurance Company to satisfy the award amount.

4. Brief facts of the case are that, on 17.03.2019, the claimant, while standing on the platform (chabutra) in front of his own house situated at Village Mujaalgondi, was hit by the offending Hyva Truck bearing Registration No. CG-07-CA-5764, owned by Zakir Ahmed Kazi and driven by Yagyanaval. The driver of the said vehicle was driving the vehicle in rash and negligent manner and, while doing so, broke the platform and struck the claimant, thereby causing the accident and inflicting serious injuries upon him. Thereafter, the claimant was taken to the Primary Health

Centre, Charama, where he was provided with initial medical treatment. Looking to his serious condition, he was subsequently shifted to Christian Hospital, Dhamtari, and thereafter admitted to Ramakrishna Hospital for further treatment. During the course of treatment, the claimant underwent surgery and remained hospitalised for a period of 30 days. It is further averred in the claim petition that the claimant's left leg and left hand were extensively degloved, resulting in the complete loss of the muscles of his hand and leg, and that he has become completely disabled in respect of his left hand and left leg. Upon receipt of information regarding the accident, Crime No. 79/2019 was registered at Police Station Gurur against the driver of the aforesaid Hyva Truck bearing Registration No. CG-07-CA-5764 for the offences punishable under Sections 279, 337 and 338 of the Indian Penal Code.

5. A claim petition was filed by the claimant Radhe Sori through his natural guardian Father claiming a compensation of Rs.20,00,000/- *inter alia* pleading that on date of the accident, i.e., 17.03.2019, the claimant Radhe Sori, was aged about 2 years and, as a result of the accident, has suffered permanent disability, remains under mental stress and has been deprived of the income that he could have earned by securing a government job in the future, as well as of a bright future. It was further pleaded that on account of the grievous injuries sustained by the claimant, he shall have to bear the expenses incurred towards medical treatment,

attendant charges, transportation expenses, loss of future earning capacity, and future medical expenses. The loss and damage suffered by the applicant as a result of the aforesaid accident can never be fully compensated in the future.

6. Pleading of the claimant has, however, been denied by the respondent/insurance company.

7. After evaluating the evidence available on record, the Tribunal decided the claim petition in favour of the claimant and awarded the above stated compensation in favour of the claimant and against the respondent/Insurance Company.

In MAC No.1027/2023

8. Learned counsel for the appellant/Insurance Company submit that the burn injuries allegedly sustained by the claimant are not attributable to the accident in question. It was further submitted that the disability certificate (Ex.P/11) does not contain any reference to the burn injuries and, therefore, the claimant cannot be considered to have suffered 100% permanent disability. Accordingly, it was contended that assessment of the claimant's disability at 100% would not be justified and therefore, the impugned award may be modified suitably.

In MAC No.548/2023

9. Learned counsel for the claimant/appellant submits that the learned Tribunal has erred in awarding meager amount of

compensation under other heads. Learned counsel placing reliance on the decision of Hon'ble Supreme Court in the matter of ***Kumaresh Vs. Divisional Manager, National Insurance Company Limited & another*** reported in ***(2011) 12 SCC 488***, submits that the learned Tribunal has failed in not awarding compensation towards pain & suffering, future medical expenses, loss of amenities and enjoyment of life, and loss of marital prospects, particularly when the claimant remained hospitalized for more than two months and suffered permanent disability. Therefore, it is prayed that the compensation awarded by the learned Tribunal may be suitably enhanced.

10. There is no representation on behalf of the driver and owner of the offending vehicle.

11. I have heard learned counsel for the claimant and Insurance Company, considered their rival submissions made herein-above and went through the records with utmost circumspection.

12. In the case in hand, the claimant is aged about 2 years who suffered permanent disability which is evident from disability certificate (Ex.P-11) and evidence of Dr. R.R. Mandle (AW-2) who has deposed that the injured, Radhe Sori, was brought before the District Medical Board for medical examination. Upon examination, the Board found an external scar and deformity of the left forearm with the hand, as well as stiffness and an external

scar on the left knee. He has also deposed that the nature of the disability suffered by the injured is permanent. Further, in paragraph 3 of his deposition, he has stated that the injured would require assistance in performing his daily activities in the future, would not be able to undertake strenuous work, and had developed deformities in both his hand and leg.

13. The father of the claimant had pleaded that due to the accident, there is gross downfall in the income of the his son (claimant) by Rs.15,000/-, but the learned Tribunal recorded the finding that the it is impossible for a child aged 2-3 years to have a monthly income of Rs.15,000/-. In such a situation, the learned Tribunal assessed the notional income of claimant at Rs.30,000/-, which in the facts and circumstances of the case and governing the issue, is found to be proper and is hereby maintained. Though the disability certificate (Ex.P-11) was give to the tune of 60% but the learned Tribunal has found it to be 100% loss of earning capacity.

14. As regards the future prospect, the learned Tribunal, considering the age of the father of the claimant to be 25 years and the nature of job at the time of accident, has rightly taken future prospect of 40%, applied the multiplier of 18 and further taking into consideration the medical documents (Ex.P-12, 13, 19, 20, 23 to 26, 31 to 33, 35 to 37, 39 to 49, 54 to 57, 59 to 99 an Ex.P-140) has awarded Rs.1,69,035/- towards medical expenses along with Rs.30,000/- towards special diet, helper and transportation.

However, the learned Tribunal has not awarded any sum towards pain & suffering, future treatment, marriage prospect and attainder for whole life.

15. The Hon'ble Supreme Court in the matter of ***Narendra Singh Vs. Nishant Sharma and Another***, reported in ***(2015) 14 SCC 353***, has observed as under :-

> *14. "Under conventional heads, following the decision of Kumaresh Vs. National Insurance Co. Ltd. (2011) 12 SCC 488, we award Rs. 50,000/- has been awarded for pain and suffering since the appellant cannot walk, sit, squat or run freely and he is not able to live a normal life, Rs. 1,00,000/-for medical expenses for whole life since he has to survive with artificial limb which might require replacement from time to time. Considering the appellant's drastically reduced chances of mobility, deprivation from attending social functions, further Rs. 3,00,000/- awarded for loss of amenities and enjoyment of life including loss of marital prospects and marital happiness, adding Rs. 50,000/- conveyance charges and cost of attendant in his old age and Rs. 50,000/- for food and nourishment. Hence, in total, a sumo f Rs. 16,28,840/- is awarded as compensation in favour of the appellant."*

16. Further, the Hon’ble Supreme Court in the matter of ***Sidram Vs. Divisional Manager, United India Insurance Company Limited and Another***, reported in ***(2023) 3 SCC 439***, has held in para 113 as under:

"113. Before we close this matter, it needs to be underlined, as observed in Pappu Deo Yadav Vs. Naresh Kumar (2022) 13 SCC 790: 2020 SCC Online SC 752 that courts should be mindful that a serious injury not only permanently imposes physical limitations and disabilities but too often inflicts deep mental and emotional scars upon the victim. The attendant trauma of the victim's having to live in a world entirely different from the one she or he is born into, as an invalid and with degrees of dependence on others, robbed of complete personal choice or autonomy, should forever be in the Judge's mind, whenever tasked to adjudge compensation claims. Severe limitations inflicted due to such injuries undermine the dignity (which is now recognized as an intrinsic component of the right to life under Article of the individual, thus depriving the person of the essence of the right toa wholesome life which she or he had lived, hitherto. From the world of the able bodies, the victim is thrust into the world of the disabled, itself most discomfiting and unsettling. If courts nit-pick and award niggardly amounts oblivious of these circumstances, there is resultant affront to the injured victim."

17. In the matter of ***Kumaresh*** *(supra),* the Hon'ble Supreme Court held in para 12 as under :-

"12. The appellant is aged just 20 years and one of his legs has been amputated below the knee. It will not only severely affect his future prospects of earning, but he will also have to be permanently

disabled for life and suffer the necessary discomforts accompanying living without a leg. It greatly minimises his chances of getting married. In light of all this, we enhance the amount awarded for loss of amenities and enjoyment of life, including loss of marital prospects, to Rs.3,00,000/-. We also enhance the amount awarded for medical expenses for his whole life to Rs.1,00,000/-, conveyance charges to Rs.50,000/- and for food and nourishment to Rs.50,000/- considering the nature of injuries sustained by the appellant. The compensation awarded by the High Court under the other heads is sustained."

18. Thus, in view of the aforesaid discussion in the light of aforesaid judicial pronouncement, this Court assess the compensation in the following manner.:-

Sr. No.	**Heads**	**Compensation awarded by the Tribunal**	**Compensation awarded by this Court**
1	Income	Rs. 30,000/-	Rs. 30,000/-
2	Future prospect	(+)40% (i.e. Rs. 12,000/-) = 42,000/-	(+)40% (i.e. Rs. 12,000/-) = 42,000/-
3	Multiplier	(x) 18 = 7,56,000/-	(x) 18 = 7,56,000/-
4	Towards Pain & Suffering	Nil.	Rs.1,00,000/-
5	Towards Medical Expenses	Rs.1,69,035/-	Rs.1,69,035/-
6	Towards Special Diet, Helper & Transportation	Rs.30,000/-	Rs.30,000/-
7	Towards Future Treatment	Nil	Rs.1,00,000/-
8	Towards	Nil	Rs.1,00,000/-

	Marriage Prospects		
9	Towards Attainder for whole life	Nil	Rs.3,00,000/-
	Total	**Rs. 9,55,035/-**	**Rs. 15,55,035/-**

19. Thus, the total compensation is recomputed as Rs.15,55,035/-. After deducting Rs.9,55,035/- as awarded by the Tribunal, the **enhancement** would be Rs.6,00,000/-.

20. As regards submission of learned counsel for the appellant/Insurance Company in MAC No.1027/2023 that the burn injuries sustained by the claimant are not attributable to the accident in question as the same does not contain any reference in disability certificate (Ex.P/11) and the claimant cannot be considered to have suffered 100% permanent disability, I do not find any force in the argument of learned counsel for the appellant/Insurance Company for the reason that the total medical bills produced on record pertain to the injuries sustained by the claimant in the accident in question and the assessment of disability made by the learned Tribunal on the basis of evidence of Dr. R.R. Mandle (AW-2) appears to be proper and justified. As such, the **MAC No.1027/2023** preferred by the appellant/Insurance Company deserves to be dismissed and is hereby **dismissed**.

21. In the result, MAC No.548/2023 preferred by the appellant/claimant is **partly allowed**. The appellant/claimant shall be entitled to receive **Rs. 6,00,000/-** in addition to what has already been awarded by the claims Tribunal. The enhanced amount shall carry interest @ 6% per annum from the date of filing of the claim application before the tribunal till its realization. The impugned award stands modified to the above extent and rest of the conditions shall remain intact.

22. The Registry is further directed to communicate the claimant in writing “the enhanced amount” in this appeal as against the award made by the Tribunal below. 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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