CGHC010136332023 2026:CGHC:45340

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MAC No. 722 of 2023

1 - Laxmuniya Uika W/o Late Suresh Uika Aged About 28 Years Occupation Housewife, R/o Village Sahadanpara, Digma P.S. Gandhinagar, Tahsil Ambikapur Dist. Surguja (C.G.).

2 - Vijay S/o Late Suresh Uika Aged About 10 Years Through Natural Guardian Mother Appellant No. 1, R/o Village Sahadanpara, Digma P.S. Gandhinagar, Tahsil Ambikapur Dist. Surguja (C.G.).

3 - Arvind S/o Late Suresh Uika Aged About 8 Years Through Natural Guardian Mother Appellant No. 1, R/o Village Sahadanpara, Digma P.S. Gandhinagar, Tahsil Ambikapur Dist. Surguja (C.G.).

4 - Anchal Uika D/o Late Suresh Uika Aged About 5 Years Through Natural Guardian Mother Appellant No. 1, R/o Village Sahadanpara, Digma P.S. Gandhinagar, Tahsil Ambikapur Dist. Surguja (C.G.).

5 - Kailaso W/o Pawan Aged About 49 Years Occupation Housewife, R/o Village Sahadanpara, Digma P.S. Gandhinagar, Tahsil Ambikapur Dist. Surguja (C.G.).

6 - Pawan S/o Late Panmeshwar Aged About 52 Years R/o Village Sahadanpara, Digma P.S. Gandhinagar, Tahsil Ambikapur Dist. Surguja (C.G.) **... Appellants**

versus

1 - Mukesh Kumar Jaiswal S/o Pramod Jaiswal Aged About 35 Years R/o Dhandhapur P.S. Rajpur Dist. Balrampur-Ramanujganj (C.G.) (Driver).

2 - Jagsai S/o Shambhu Singh Aged About 24 Years Village Dhandhapur P.S. Rajpur Dist. Balrampur Ramanujganj (C.G.) (Vehicle Owner).

3 - Branch Manager Tata A.I.G. General Insurance Company Limited, Branch Office 04 Floor Gawlani Chamber Office No. 08 Vyapar Vihar, Main

Road, Near I.C.I.C.I. Bank Vyapar Vihar Bilaspur Dist. Bilaspur (C.G.) (Insurance Company) **... Respondents**

For the appellants	**:**	Mr. Dev Ashish Biswas, Advocate
For respondent no.3	**:**	Ms. Harneet Kaur Khanuja, Advocate

(Hon'ble Shri Justice Sanjay Kumar Jaiswal)

Order on Board

27.10.2026

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 13.10.2022 passed by the learned Additional Motor Accident Claims Tribunal Ambikapur in Claim Case No. 24/2022 whereby a total compensation of Rs.10,57,840/-/- has been awarded.

2. As per the facts pleaded in claim application filed under Section 166 of the MV Act, deceased Suresh Uika sustained grievous injuries in a motor accident took place on 14.08.2021 due to rash and negligent driving of respondent no.1 who drove the offending Motorcycle No. C.G. 30-B/0518. The injured was admitted in Ambikapur hospital where he succumbed to injuries on 16.08.2021 during treatment. Appellant No.1 is the widow ; appellants 2, 3 & 4 are minor children and appellants 5 & 6 are parents of the deceased. They being legal heirs have filed claim application u/s 166 of the M.V. Act, seeking a total compensation of Rs. 46,57,000/- on different heads.

3(i). Learned counsel for the appellants submits that the income taken by the Tribunal is on lower side and the amounts granted under the other conventional heads are also meagre, thereby, just compensation has not been awarded. He prays that the compensation awarded by the Claims Tribunal may suitably be enhanced.

3(ii) He further argues that the Tribunal's finding—attributing 30% contributory negligence to the deceased, who was the rider of the motorcycle is erroneous. There is no evidence on record to suggest any negligence on the part of the deceased. In these circumstances, it would not be appropriate to hold that the deceased is liable for contributory negligence; therefore, this finding should be set aside, and the driver/owner, and insurer of the offending vehicle should be held entirely liable.

4. Learned counsel for respondent no.3/Insurer of the offending vehicle supports the impugned award and contends that the incident involved a head-on collision between two motorcycles. The accident occurred at approximately 5:30 PM. In these circumstances, the Tribunal's finding that the deceased was 30% contributorily negligent is consistent with the evidence on record and is appropriate. Therefore, the argument put forth by the appellant is not tenable.

5. I have heard learned counsel for the parties, considered their rival submissions and perused the record with utmost circumspection.

6. In this case, Vijay Prakash was examined as an eyewitness on behalf of the claimants, whereas no evidence was presented by the driver, owner, or insurer of the offending vehicle. It is noteworthy that Vijay Prakash was a pillion rider on the offending vehicle, accompanied by its driver, Mukesh (respondent no.1). In his testimony before the court, Vijay Prakash has clearly stated that the offending vehicle was being driven by respondent no.1 at a high speed and in a negligent manner, which resulted in the accident. His testimony remained unrebutted during cross-examination and in paragraph 7 of his cross-examination, he has specifically clarified that the offending vehicle was traveling in the wrong direction, that

is, on the right side of the road. There is no evidence on record to contradict this statement by Vijay Prakash. Furthermore, it is significant to note that following a police investigation, a charge sheet (Exhibit P-1) was filed against the driver, Mukesh, in which Vijay Prakash is listed as a witness. Under these circumstances, there is no reason to disbelieve the testimony of Vijay Prakash, especially since his version is corroborated by the final police report. Consequently, it is concluded that the accident was caused solely by rash and negligent driving of respondent no.1 Mukesh. The driver, owner, and insurer of the offending vehicle failed to prove that there was any contributory negligence on the part of the deceased. Therefore, the finding of contributory negligence reached by the Tribunal is erroneous and is hereby **set aside**.

7. As regards the income of deceased, the claimants pleaded that the deceased was earning Rs.12,000/- per month by doing the job of Head-Mason. However, the Tribunal took the income of deceased as Rs.7000/- per month, which seems to be on lower side. In absence of any cogent reliable evidence regarding the income of deceased and looking to the prevalent market rates, it would be appropriate to take his monthly income to be Rs.9,200/-treating him as unskilled labour as per the the Chhattisgarh Minimum Wages applicable at the time of accident occurred on 14.08.2021.

8. Since the age of deceased was found to be 32 years and there are 6 claimants, following the case-law laid down by Supreme Court, the Tribunal has rightly added **40%** future prospectus, deducted **1/4th** towards personal expenses and applied multiplier **16** which cannot be said to be unsustainable.

9. Under the other conventional heads, the Tribunal has granted

Rs.15000/- for loss of estate and Rs.15000/- which seems to be slightly lesser in view of principle of 10% automatic enhancement.

10. As regards consortium, it appears that a sum of Rs.40,000/- has been awarded to the wife whereas the minor children and parents have been completely ignored 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 six claimants in this case. Thus, following the principle of 10% automatic enhancement, each claimant is entitled to Rs.44,000/- separately and the total comes to Rs.2,64,000/- under this specific head.

11. 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	**Rs.14,11,200/-** ---------- after deducting 30% contributory negligence i.e., 4,23,360/- = loss of dependency was worked to **Rs. 9,87,840/-**	**Rs. 9200 X 12** = **1,10,400/-** plus Future Prospectus- **40%** i.e., **44,160/-** = **1,54,560** minus 1/4th deduction of personal expenses i.e., **38,640/-** = **1,15,920/-** x **16** multiplier = **18,54,720/-**
2.	Loss of estate	**15,000/-**	**16,500/-**
3.	Funeral expenses	**15,000/-**	**16,500/-**

4.	Loss of consortium	(40000 x 1) **40,000/-**	(44,000 x 6 claimants) **2,64,000/-**
	Total Rs.	**10,57,840/-**	**21,51,720/-**

12. In view of the aforesaid analysis, the amount of compensation of Rs. 10,57,840/- awarded by the Claims Tribunal is enhanced to Rs. 21,51,720/- Hence, after deducting the amount of Rs 10,57,840/- the appellants are held entitled for an additional sum of **Rs. 10,93,880/-.** The additional amount of compensation shall carry interest @ 6% per annum from the date of filing claim application before the Tribunal till its realization. The respondents are liable to pay the entire amount of award. Rest of the conditions of the impugned award shall remain intact.

13. In the result, this appeal is **allowed in part** and the impugned award is modified to the extent as indicated herein-above.

Sd/-

Sanjay Kumar Jaiswal
Judge

Rao

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