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CGHC010144392024

**NAFR**

**HIGH COURT OF CHHATTISGARH AT BILASPUR**

**MAC No. 863 of 2024**

**1 -** Amardas S/o Manohar Das, Aged About 48 Years R/o Village- Banki Mongra, P.S.-Banki Mongra, District-Korba (C.G.)

**2 -** Bindiya W/o Amardas, Aged About 44 Years R/o Village- Banki Mongra, P.S. -Banki Mongra, Tahsil-Katghora, District-Korba (C.G.) --------(Claimants)

**... Appellants**

**versus**

**1 -** Santosh Kumar Kaiwart S/o Sukhi Ram Kaiwart, Quarter No. 828 Pump House Colony, Korba, District Korba (C.G.) ------ (Owner and driver of vehicle)

**2 -** Shriram General Insurance Company Limited, Through- Branch Manager, Korba, District-Korba (C.G.) -----(Insurer of vehicle)

--- **Respondent(s)**

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|---|---|---|
| For Appellants | : | Mr. Hardik Jaiswal, Adv. on behalf of Mr. Anshul Tiwari, Adv. |
| For Respondent No.1 | : | None |

For Respondent No.2 : Mr. Pravesh Sahu, Advocate on behalf of Mr. P.R. Patankar, Advocate

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**Hon'ble Shri Justice Sanjay Kumar Jaiswal**
**Judgment on Board**

**(05.10.2026)**

**1.** 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 15.03.2024, passed in Claim Case No.111/2019, by learned 2nd Motor Accident Claims Tribunal, Katghora, District Korba, whereby the learned Claims Tribunal has awarded a total sum of Rs.5,00,000/- as compensation for the death of Ritesh Das aged about 9 years, who died in a road accident which took place on 15.07.2019.

**2.** Learned counsel for the appellants would submit that although the Tribunal has granted a lump-sum amount of Rs. 5,00,000/-, as per **Hitesh Nagjibhai Patel Vs. Bababhai Nagjibhai Rabari & Anr. 2025 SCC OnLine SC 3446,** in case of a child having suffered injury or having passed away, the calculation of loss of income has to be made on the metric of minimum wages payable to a skilled worker. Hence, it is prayed that the amount of compensation may be enhanced and must be calculated as per the minimum wages.

**3.** Learned counsel for respondent No.3/insurance company would submit that the Claims Tribunal after appreciating oral and documentary evidence available on record rightly awarded the compensation amount. Hence, the

compensation awarded by the Claims Tribunal is just and proper and requires no interference.

**4.** I have heard learned counsel for the parties, considered their rival submissions made herein-above and went through the records with utmost circumspection.

**5.** In the case at hand, it is true that the learned Tribunal has granted a lump-sum amount of Rs. 5,00,000/-. The Hon'ble Supreme Court in the matter of **Hitesh Nagjibhai Patel Vs. Bababhai Nagjibhai Rabari & Anr., 2025 SCC OnLine SC 3446** has held that a minor child who suffers death or permanent disability in a motor vehicle accident cannot be placed in the same category as a non-earning individual for the purpose of assessing compensation merely because the child was not engaged in gainful employment. It has been further held that in such a case, where a child has suffered injury or has passed away, the computation of compensation under the head of loss of income ought to be made by adopting, at the very least, the minimum wages payable to a skilled workman as notified for the relevant period in the respective State where the cause of action arises. The relevant paragraphs 9 and 15 are reproduced hereinbelow:

> *"9. On the aspect of monthly income of the minor appellant, we are inclined to interfere with the judgment and order of the Courts below. In the present case, it is evident that the Courts below have failed to take into account the monthly income of the appellant while determining the quantum of compensation. It is now a well- entrenched and consistently reiterated principle of law that a minor child who suffers death or permanent disability in a motor vehicle accident, cannot be placed in the same category as a non- earning individual for the purposes of assessing the amount of compensation because the child was not engaged in gainful employment at the time of the accident. In such a case, the computation of compensation under the*

> *head of loss of income ought to be made by adopting, at the very lease, the minimum wages payable to a skilled workman as notified for the relevant period in the respective State where the cause of action arises. The said observation was rendered by this Court, in* ***Kajal v. Jagdish Chand and Ors.(2020) 4 SCC 413, and Baby Sakshi Greola v. Manzoor Ahmad Simon and Anr., 2024 SCC OnLine SC 3692.***
>
> *"15. For the purpose of emphasis, it is again clarified here that when a Tribunal or the High Court in appeal, is concerned with the case involving a child having suffered injury or having passed away, the calculation of loss of income necessarily has to be made on the matric of minimum wages payable to a skilled worker in the respective State at the relevant point of time. It is our hope that this restatement helps avoiding such errors and thereby obviates the necessity of this Court's interference, applying well-established principles of law."*

**6.** In view of the above, the deceased Ritesh Das is considered as a skilled worker and his monthly income is assessed at Rs. 9,830/- per month as per the Minimum Wages Notification issued by the office of the Labour Commissioner, Chhattisgarh, prevailing at the relevant point of time i.e. on 15.07.2019. Furthermore, in the present case, the age of appellant Nos. 1 and 2 at the time of filing of the claim case was 48 years and 44 years respectively. It would be appropriate to consider the average age of the father and mother for the purpose of applying the appropriate multiplier. Hence, applying the law laid down by the Hon'ble Supreme Court in the matter of **National Insurance Company Ltd. V. Pranay Sethi**[1]**,** considering the average age of the parents of the deceased i.e. 46 years, the appropriate multiplier would be 13. To that extent, the impugned award needs to be modified.

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1 (2017) 16 SCC 680

**7.** 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**[2] **and Magma General Insurance Co. Ltd. v. Nanu Ram @ Chuhru Ram & Ors**[3], this Court is computing the compensation as below:-

| **Sr. No.** | **Heads** | **Compensation awarded by the Tribunal** | **Compensation awarded by this Court** |
|---|---|---|---|
| 1 | Income | 5,00,000 | Rs. 9830 x 12 = 1,17,960/- |
| 2. | Future prospect | | (+)40% (i.e. Rs. 47,184) = 1,65,144/- |
| 3. | Deduction | | (-) 1/2 (i.e. 82572) = 82,572/- |
| 4. | Multiplier | | (x) 13 = 10,73,436/- |
| 5 | Other conventional heads | | Rs. 1,10,000/- (15000+15000+80000) |
| | **Total** | **Rs. 5,00,000/-** | **Rs. 11,83,436/-** |

**8.** In view of the aforesaid analysis, the lumpsum amount of compensation of Rs.5,00,000/- awarded by the Claims Tribunal is enhanced to Rs.11,83,436/-. Hence, after deducting the amount of Rs.5,00,000/-, the appellants are held entitled for an additional amount of Rs.6,83,436/-. The additional amount of compensation shall carry interest @ 6% 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.

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2 (2009) 6 SCC 121

3 (2018) 18 SCC 130

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

**10.** Records of the Tribunal along with a copy of this judgment be sent forthwith for compliance and necessary action, if any.

**11.** 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**

*-Shubham*