BHOLA NATH KHATAI
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CGHC010159422023 2026:CGHC:46487

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HIGH COURT OF CHHATTISGARH AT BILASPUR

MAC No. 789 of 2023

1 - Smt. Anusuiya Bai Kurre W/o Late Laxmi Narayan Kurre Aged About 41 Years R/o Village - Ameri Thana Sakari Tahsil Sakari, District - Bilaspur, Chhattisgarh.

2 - Sarojani Kurre D/o Late Laxmi Narayan Kurre Aged About 13 Years Appellant No.2 Is Minor Through Legal Guardian Mother Smt. Anusuiya Bai Kurre, Appellant No. 01, R/o Village - Ameri Thana Sakari Tahsil Sakari, District - Bilaspur, Chhattisgarh.

3 - Tarun Kumar Kurre S/o Late Laxmi Narayan Kurre Aged About 7 Years Appellant No.03 Is Minor Through Legal Guardian Mother Smt. Anusuiya Bai Kurre, Appellant No. 01, R/o Village - Ameri Thana Sakari Tahsil Sakari, District - Bilaspur, Chhattisgarh.

4 - Smt. Amrik Bai Kurre W/o Budhariram Kurre Aged About 65 Years R/o Village - Ameri Thana Sakari Tahsil Sakari, District - Bilaspur, Chhattisgarh.

5 - Budhariram Kurre S/o Late Titara Kurre Aged About 67 Years R/o Village - Ameri Thana Sakari Tahsil Sakari, District - Bilaspur, Chhattisgarh.

--- **Appellant(s)**

versus

1 - Raghuraj Rathour S/o Mahipat Singh Aged About 52 Years R/o Ward No. 14 F.C.I. Road Pendra, Thana- Pendra District-

Gaurela Pendra Marvahi, Chhattisgarh, (Driver Cum Owner Of The Offending Vehicle Truck No. M. P. 65/ G. A. / 0129).

2 - The Chola Mandalam M.S. General Insurance Company Limited Through Branch Manager, Branch Office, Main Road Near - Vinayak Netralay Byapar Vihar Thana- Tarbahar, Tahsil And District - Bilaspur, Chhattisgarh. (Insurer Of The Offending Vehicle Truck No. M. P. 65/ G. A. / 0129).

--- **Respondent(s)**

For Appellants	**:**	Mr. A. L. Singroul, Advocate
For Respondent No.2	**:**	Mr. Harshmander Rastogi, Advocate

MAC No. 1792 of 2023

1 - Cholamandalam M.S. General Insurance Company Limited. Through Branch Manager, Branch Office, Main Road, Near Vinayak Netralaya, Vyapar Vihar, Thana Tarbahar, Tahsil And Dist. Bilaspur (C.G.0-At Present- 2nd Floor, Simran Tower, Pandri, Opp. L.I.C. Building, Raipur Dist. Raipur, C.G. (Insurer Of Vehicle Truck No. M. P. 65/ G.A. / 0129)

---Appellant(s)

Versus

1 - Smt. Anusuiyya Bai Kurre W/o Late Laxinarayan Kurre Aged About 41 Years R/o Village Ameri, Thana Sakri, Tahsil Sakri, Dist. Bilaspur, C.G. (Claimants)

2 - Sarojni Kurre D/o Late Laxinarayan Kurre Aged About 13 Years Minor Hence Representing Through Her Mother Res. No. 1 Smt. Anusuiyya Bai Kurre, R/o Village Ameri, Thana Sakri, Tahsil Sakri, Dist. Bilaspur, C.G. (Claimants)

3 - Tarun Kumar Kurre D/o Late Laxinarayan Kurre Aged About 7 Years Minor Hence Representing Through His Mother Res. No.

1 Smt. Anusuiyya Bai Kurre, R/o Village Ameri, Thana Sakri, Tahsil Sakri, Dist. Bilaspur, C.G. (Claimants)

4 - Smt. Amrik Bai W/o Budhari Ram Kurre Aged About 65 Years R/o Village Ameri, Thana Sakri, Tahsil Sakri, Dist. Bilaspur, C.G. (Claimants)

5 - Budhari Ram Kurre S/o Late Titra Kurre Aged About 67 Years R/o Village Ameri, Thana Sakri, Tahsil Sakri, Dist. Bilaspur, C.G. (Claimants)

6 - Raghuraj Rathore S/o Mahipal Singh Aged About 52 Years R/o Ward No. 14, F.C.I. Road, Pendra, Thana Pendra, District-Gaurela- Pendra- Marwahi C.G. (Owner And Diriver Of Vehicle Truck No. M.P. 65/G.A. / 0129)

--- **Respondent(s)**

For Appellant	**:**	Mr. Harshmander Rastogi, Adv.
For Respondents No.1 to 5	**:**	Mr. A. L. Singroul, Advocate

Hon'ble Shri Justice Sanjay Kumar Jaiswal

Judgment on Board

03/11/20226

1. Since both the appeals arise out of the same accident and the same award, they are being decided by this common judgment.

2. Both the appeals have been filed challenging the impugned award dated 01.02.2023 passed by the 4th additional Motor Accident Claims Tribunal, Bilaspur (Chhattisgarh), in Claim Case No.273/2021, whereby the Claims Tribunal has awarded a total sum of ₹23,69,958/- as compensation for the death of Laxmi Narayan Kurre, who died in a motor vehicle accident that took place on 13.08.2020.

3. MAC No.789/2023 has been preferred by the

appellants/claimants seeking enhancement of the compensation, whereas MAC No.1792/2023 has been preferred by the Insurance Company challenging the liability part.

MAC No. 789 of 2023

4. Learned counsel appearing for the appellants/claimants submits that the Claims Tribunal has committed an error in assessing the monthly income of the deceased at ₹9,750/-. It is contended that although the Tribunal has treated the deceased as a skilled worker, it has assessed his monthly income at an amount lower than the minimum wages prescribed for a skilled worker at the relevant time. It is further submitted that despite there being five claimants, the Claims Tribunal has awarded compensation towards loss of consortium in favour of only one claimant, thereby depriving the remaining claimants of their legitimate entitlement under the said head. Learned counsel, therefore, prays that the appeal be allowed and the compensation awarded by the Claims Tribunal be suitably enhanced.

5. Per contra, learned counsel appearing for respondent No.3/Insurance Company submits that the compensation awarded by the Claims Tribunal is just and proper and does not warrant any interference.

6. Heard learned counsel for the parties and perused the record with utmost circumspection.

7. The deceased was a driver by profession, and the claimants have also brought on record his driving licence. Having regard to the nature of his occupation, the Claims Tribunal has treated him as a skilled worker. However, it has assessed his monthly income at ₹9,750/-. The accident

occurred on 13.08.2020, on which date the minimum wages prescribed for a skilled worker were ₹10,290/- per month. Accordingly, the monthly income of the deceased is reassessed at ₹10,290/-.

8. Considering the date of the accident, the age of the deceased (45 years) and the number of claimants (five), this Court finds that the addition towards future prospects, deduction towards personal expenses, multiplier applied and the amounts awarded by the Claims Tribunal under the heads of funeral expenses and loss of estate are just, proper and in accordance with law. However, the Claims Tribunal has awarded compensation towards loss of consortium in favour of only one claimant, despite there being five claimants in the present case. Accordingly, all the five claimants are held entitled to compensation towards loss of consortium at the rate of ₹44,000/- each.

9. Thus, in view of the aforesaid discussion and the judgments of the Hon'ble Supreme Court in **National Insurance Company Ltd. V. Pranay Sethi**[1]**, Sarla Verma & Ors. Vs. Delhi Transport Corporation & Ors**[2] **and Magma General Insurance Co. Ltd. v. Nanu Ram @ Chuhru Ram & Ors**[3], the compensation is recomputed as under:-

Sl.	**Heads**	**Compensation awarded by the Tribunal**	**Compensation awarded by this Court**
1.	Income	9,750 × 12 = 1,17,000	10,290 × 12 = 1,23,480
2.	Future prospects	(+) 25% (i.e. 29,250) = 1,46,250	(+) 25% (i.e. 30,870) = 1,54,350
3.	Deduction towards personal	(-) ¼ (i.e. 36562) = 1,09,688	(-) ¼ (i.e. 38,587.5) = 1,15,762.5

1 (2017) 16 SCC 680
2 (2009) 6 SCC 121
3 (2018) 18 SCC 130

	expenses		
4.	Multiplier	(×) 14 = 15,35,632	(×) 14 = 16,20,675
5.	Funeral Expenses	16,500	16,500
6.	Loss of Estate	16,500	16,500
7.	Loss of Consortium	44,000	2,20,000 (44,000 x 5)
8.	Medical expenses	7,57,326	7,57,326
	Total	**₹23,69,958/-**	**₹26,31,001/-**

10. In view of the aforesaid analysis, the amount of compensation of ₹23,69,958/- awarded by the Claims Tribunal is enhanced to ₹26,31,001/-. Thus, after deducting the amount already awarded by the Claims Tribunal, the claimants are held entitled to an additional amount of **₹2,61,043/-**. The additional amount of compensation shall carry interest at the rate of 6% per annum from the date of filing of the claim petition before the Tribunal till its realization. The remaining terms and conditions of the impugned award shall remain unaltered.

MAC No. 1792 of 2023

11. Learned counsel for the appellant/Insurance Company submits that there was an unexplained delay of 48 days in lodging the FIR and that the offending vehicle has been falsely implicated in the present case. It is further submitted that the accident occurred at around 2:00 p.m., during daytime, and that the offending vehicle was allegedly parked on the road. The deceased, while driving his own trailer, came from behind and dashed against the stationary offending vehicle. It is, therefore, contended that the accident occurred due to the rash and negligent driving of the deceased himself and that the Claims Tribunal ought to

have attributed contributory negligence to him. However, the Tribunal has erred in not considering this aspect.

12. On the other hand, learned counsel appearing for respondents No.1 to 5/claimants submits that the offending vehicle was parked negligently on the road without any indication or warning, which resulted in the accident. It is, therefore, contended that the accident occurred due to the negligence of the driver of the offending vehicle and no contributory negligence can be attributed to the deceased.

13. Heard learned counsel for the parties and perused the record.

14. The accident occurred on 13.08.2020, whereas the FIR was registered on 30.09.2020 on the basis of a written complaint. The deceased, Laxmi Narayan Kurre, subsequently succumbed to his injuries on 13.10.2020. The charge-sheet has been filed against the driver of the offending vehicle, and the same has remained unrebutted. Neither the driver nor the owner of the offending vehicle nor the Insurance Company has adduced any evidence in support of their defence. In such circumstances, there is no reason to doubt the charge-sheet. Accordingly, the contention regarding false implication of the offending vehicle is not sustainable.

15. So far as the question of contributory negligence is concerned, the charge-sheet has been filed against the driver of the offending vehicle, and the same is also corroborated by the statement of claimant Smt. Anusuiya Bai Kurre. Neither the driver nor the owner of the offending vehicle nor the Insurance Company has led any evidence to establish negligence on the part of the deceased. On the

contrary, there is no evidence available on record to indicate that the deceased was driving his trailer rashly or negligently and had contributed to the accident. In the absence of any evidence establishing contributory negligence on the part of the deceased, the ground raised by the Insurance Company in this regard is also not sustainable.

16. Consequently, MAC No.1792/2023 preferred by the Insurance Company is **dismissed**, whereas MAC No.789/2023 preferred by the claimants is **partly allowed** and the impugned award is modified to the extent indicated hereinabove.

17. The Registry is directed to communicate to the claimants, in writing, the enhanced/additional amount awarded in the appeal over and above the amount awarded by the concerned Claims Tribunal. Such communication shall be made in Hindi (Devanagari) language, and the assistance of Para-Legal Volunteers may be availed in coordination with the Secretary, District Legal Services Authority of the concerned area where the claimants reside.

Sd/-

(Sanjay Kumar Jaiswal)
Judge

Khatai