CGHC010184822023 2026:CGHC:44305

HIGH COURT OF CHHATTISGARH AT BILASPUR

MAC No. 962 of 2023

The Oriental Insurance Company Ltd. Branch Office Jagdalpur, District Bastar (Chhattisgarh). *through* Incharge, Legal Hub, Legal Hub Office, Rama Trade Center, 1st Floor, Opp. Rajeev Plaza, Near Old Bus Stand, Bilaspur (Chhattisgarh) PIN-495001 (Insurance Company) **... Appellant**

versus

1 - Sukta Netam S/o Late Andhu Netam Aged About 57 Years Caste- Muria, R/o- Nayapara Polang, Police Station and Tehsil Kondagaon (Claimant), District : Kondagaon, Chhattisgarh.

2 - Rajesh Kumar Korram S/o Nagdiram Korram Aged About 27 Years Resident of Patelpara, Kakadgaon, Police Station And Tehsil Kondagaon (Driver), District : Kondagaon, Chhattisgarh.

3 - Mulchand Netam S/o Sukta Netam Aged About 30 Years Resident of Nayapara Polang, Police Station And District Kondagaon (Owner), District : Kondagaon, Chhattisgarh **... Respondents**

For the appellant	:	Mr. Ratan Pusty, Advocate with Mr. Akash Shrivastava, Advocate
For Respondent No.1	:	Mr. Shikhar Shukla, Advocate
For respondents 2 & 3	:	None

Hon'ble Shri Justice Sanjay Kumar Jaiswal)

Judgment on Board

13.10.2026

1. This appeal under Section 173 of Motor Vehicles Act, 1988 (for short

"MV Act") has been filed by the Insurer challenging the impugned award dated 30.01.2023 passed by the learned Motor Accident Claims Tribunal, Kondagaon, Distt. Kondagaon Chhattisgarh in Claim Case No. 73/2019.

2. The respondent no.1 (claimant) has also filed cross objections seeking enhancement of the award whereby a total compensation of Rs.4,73,650/- has been granted for the death of Bhavati Netam.

3. The facts pleaded in claim application regarding accident are that on 06.09.2017 deceased Bhavati Netam was travelling as a pillion rider on a motorcycle bearing No. C.G-17/KJ-4394 which was being driven by her sister's son Rajesh Kumar. On the way when they reached Lanjoda village the motorcycle started lurching due to rugged road and therefore she fell down from motorcycle and sustained serious head injury. She was admitted in hospital where she died during treatment on 10.09.2017. Respondent no.1 being husband and legal heir of deceased filed claim application u/s 163-A of MV Act seeking a total compensation of Rs. 23,80,000/- on various heads.

4. Learned counsel for the appellant/Insurer submits that the deceased Bhavati Netam was pillion rider of the offending motorcycle; Claimant Sukta Netam (Respondent no.1) happens to be husband of deceased and their son Mulchand Netam (Respondent no.2) is registered owner of the said motorcycle. Therefore, the claim petition filed u/s 163-A of M.V. Act was not maintainable and the Tribunal ought not to have granted compensation.

5. Learned counsel for respondent no.1 opposes the arguments of insurer and supports Tribunal's decision to grant him compensation.

6. I have heard learned counsel for the parties, considered their rival submissions and perused the record.

7. Indisputably, deceased was pillion rider and was not driver of the offending vehicle. Witness V. Ashish Kumar, Administrative Officer of the

Insurance Company has been examined as N.A.W-1. He filed and proved the Insurance Policy as Ex.N.A.1. He never denied the fact of pillion rider's risk being covered by the Policy. Even the appellant Insurer did not raise any pleading or objection regarding maintainability of the petition in its written statement filed before the Tribunal. As such, the Insurer is attempting to introduce this maintainability objection as a completely new ground before the appellate Court without there being any prior foundation or pleading before the Tribunal.

8. Since the deceased was pillion rider and as per the insurance policy (Ex.N.A.1), the risk of the pillion rider was found to be covered, the question raised by the appellant/insurer regarding maintainability cannot be accepted. Therefore, the appeal filed by the insurance company is liable to be **dismissed**.

9. As regards cross objections, the submission of learned counsel for respondent no.1is that the income taken by the Tribunal is on lower side, therefore, just compensation has not been awarded. He prays that the compensation awarded may suitably be enhanced.

10. Learned counsel appearing for the insurer submits that the Tribunal has passed the just award, which needs no interference.

11. The Tribunal took the monthly income of deceased as Rs.4500/- which is on lower side. In absence of any evidence regarding income of deceased and looking to the nature of job and prevalent market rates, it would be appropriate to take his monthly income to be Rs. 7930/- treating him as unskilled labour as per the the Chhattisgarh Minimum Wages applicable on the date of accident 06.09.2017 and to that extent the impugned award needs to be modified. Since the age of deceased was found to be 58 years and there is one claimant, following the case-law laid down by Supreme Court, the Tribunal has properly added **15%** future prospectus, deducted **one-half (½)** towards personal expenses and applied

multiplier **13** which cannot be said to be unsustainable. That apart, the amounts awarded under the other conventional heads i.e., Rs.40,000/- for loss of consortium; Rs. 15,000/- for loss of estate and Rs.15,000/- for funeral expenses cannot be said to be on lower side.

12. 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	(3,51,000 + 15% FP i.e., 52,650) **4,03,650/-**	**Rs. 7930** X **12** = **95,160/-** plus Future Prospectus- **15%** i.e., **14,274/-** = **1,09,434/-** minus one-half (1/2) deduction of personal expenses .e.,54,717/ = **54,717** x **13** multiplier **7,11,321/-**
2.	Loss of estate	**15,000/-**	**15,000/-**
3.	Funeral expenses	**15,000/-**	**15,000/-**
4.	Loss of consortium	**40,000/-**	(40,000 x 1 claimant) **40,000/-**
	Total **Rs.**	**4,73,650/-**	**7,81,321/-**

13. In view of the aforesaid analysis, the amount of compensation of Rs. **4,73,650/-** awarded by the Claims Tribunal is enhanced to Rs. **7,81,321/-**

Hence, after deducting the amount of **Rs. 4,73,650/-** the appellant is held entitled for an additional sum of **Rs. 3,07,671/-.** 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.

14. In the result, this appeal filed by the insurer is **dismissed** and the cross objections filed by the claimant is **partly allowed**. The impugned award is modified to the extent as indicated hereinabove.

Sd/-

Sanjay Kumar Jaiswal
Judge

Rao

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