CGHC010260362023 2026:CGHC:44167

PRASHANT DEWANGAN

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HIGH COURT OF CHHATTISGARH AT BILASPUR

MAC No. 1452 of 2023

1 - Krishna Kumar Shandilya, S/o Sukal Ram, Aged About 48 Years (Father Of Deceased), R/o Village - Rajpur, P.O. - Dongardula, Tehsil - Nagri , District - Dhamtari , Chhattisgarh. (Claimant)

2 - Smt. Anita Bai W/o Krishna Kumar Shandilya Aged About 39 Years (Mother Of The Deceased), R/o Village - Rajpur, P.O. - Dongardula, Tehsil - Nagri , District - Dhamtari , Chhattisgarh. (Claimant)

3 - Sourabh S/o Krishna Kumar Shandilya Aged About 18 Years (Brother Of The Deceased) R/o Village - Rajpur, P.O. - Dongardula, Tehsil - Nagri , District - Dhamtari , Chhattisgarh. (Claimant)

4 - Satendra Kumar S/o Krishna Kumar Shandilya Aged About 16 Years (Brother Of The Deceased), Minor Being Represented By His Natural Guardian (Father) Appellant No. 1 (Krishna Kumar Shandilya), R/o Village - Rajpur, P.O. - Dongardula, Tehsil - Nagri , District - Dhamtari , Chhattisgarh. (Claimant)

... Appellants

versus

1 - Subhash Chand Sinha, S/o Lt. Durgu Ram Sinha, Aged About 56 Years, Caste - Kalar, R/o Village And P.O. - Farsiyaan, Tehsil - Nagri, District - Dhamtari, Chhattisgarh. (Driver)

2 - Savita Sahu D/o Hulaarsingh Sahu, Aged About 41 Years R/o Sidhharth Chowk Raipur, P.S. - Raipur, Tehsil And District Raipur, Chhattisgarh. (Owner)

3 - Branch Manager, The Oriental Insurance Company Limited, M.B. Trade Centre, Near Ghadi Chowk, Dhamtari, P.O. , P.S., Tehsil And District - Dhamtari, Chhattisgarh. (Insurance Company)

... Respondent(s)

For Appellants	: Mr. H.A.P.S. Bhatia, Advocate
For Respondents No.1 and 2	: Notice unserved
For Respondent No.3	: Mr. Mohd. Azad Siddiqui, Advocate

Hon'ble Shri Justice Sanjay Kumar Jaiswal
Judgment on Board

(13/10/2026)

1. Heard on admission.

2. Admit.

3. With the consent of learned counsel for the parties, the case is heard finally.

4. 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 08/05/2023, passed in Claim Case No. 70/2022, whereby the learned Claims Tribunal has awarded a total sum of Rs.10,55,880/- as compensation for the death of Deepesh Shandilya, who died in a road accident which took place on 31/01/2022.

5. Learned counsel for the appellants submits that the 10% compensation has been deducted towards contributory negligence on the ground that on the motorcycle three persons were traveling which runs contrary to the decision of the

Supreme Court in the matter of **Mohammed Siddique & another v. National Insurance Company Limited & others**, therefore, the 10% contributory negligence be waived. He would also submit that the Claims Tribunal erred in assessing income of the deceased Rs.8,000/- per month which should be Rs.9,280/- per months as per Chhattisgarh Minimum Wages Notification isued by the office of the Labour Commissioner, Chhattisgarh. It is submitted that the learned Claims Tribunal has awarded inadequate amounts under the conventional heads. Learned counsel further submits that no amount has been awarded towards consortium by the learned Claims Tribunal, which is also payable to the claimants. It is, therefore, prayed that the instant appeal be allowed and the compensation awarded by the learned Claims Tribunal be suitably enhanced.

6. Learned counsel appearing for Respondent No. 3/Insurance Company submits that the learned Claims Tribunal, after duly appreciating the oral and documentary evidence available on record, has rightly awarded the compensation and deducted 10% of the compensation towards contributory negligence. It is further submitted that the compensation awarded by the learned Claims Tribunal is just and proper and does not warrant any interference by this Court.

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

8. Admittedly, the Claims Tribunal has deducted 10% compensation towards the contributory negligence on the ground that on the motorcycle three persons were traveling, however, the said finding of the Claims Tribunal runs contrary to the decision of the Supreme Court in the matter of **Mohammed Siddiue** (supra) and also by this High Court in the case of **Kaliram Sahu & Ors. Vs. Chamanlal Dewangan & Ors**, reported in **2014 (1) CGLJ 431** holding that three persons were riding a motorcycle is not sufficient for contributory negligence unless it is established that it contributed to the accident.

9. Admittedly, in the instant case, at the time of accident, three persons were traveling on the motorcycle. However, no evidence on record to show that any wrongful act on the part of the driver of the motorcycle along with the deceased persons contributed to the accident. In the absence of any evidence in this regard and in the light of the aforesaid judgments, the riders of the motorcycle cannot be held guilty of contributory negligence.

10. Learned Claims Tribunal assessed the monthly income of the deceased to be Rs.8000/-, however, in the opinion of this Court, as per the Chhattisgarh Minimum Wages Notification issued by the Office of Labour Comissioner, Chhattisgarh, the monthly income of the deceased should be Rs.9,280/-. Further, on the basis of the documents available on record, the learned Tribunal has held that the deceased was unmarried aged about 20 years at the time of the accident. Having regard to the

number of claimants (4), the Tribunal has added 40% towards future prospects, deducted ½ (half) towards the personal and living expenses of the deceased, and applied the multiplier of '18'. The aforesaid assessment, in the opinion of this Court, is just and proper and does not warrant any interference.

11. However, under the conventional heads, the learned Claims Tribunal has awarded a sum of Rs. 45,000/-, whereas the claimants are entitled to Rs.2,09,000/- towards other conventional heads. To this extent, the impugned award warrants modification.

12. Thus, in light of the aforesaid discussion and in light of the judgments of the Supreme Court rendered in the matters of **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]**, this Court is computing the compensation as below:-

Sr. No.	**Heads**	**Compensation awarded by the Tribunal**	**Compensation awarded by this Court**
1	Income	Rs. 8,000/-	Rs. 9280x 12 = 1,11,360/-
2.	Future prospect	(+)40% (i.e. Rs. 2400) = 10400/- x 12= 1,24,800/- (miscalculated)	(+)40% (i.e. Rs. 44,544) = 1,55,904/-

1 (2017) 16 SCC 680

2 (2009) 6 SCC 121

3 (2018) 18 SCC 130

3.	Deduction	(-) 1/2 (i.e. 62,400) = 62,400/-	(-) 1/2 (i.e. 77,952) = 77,952/-
4.	Multiplier	(x) 18 = 11,23,200/-	(x) 18 = 14,03,136/-
5.	Deduction (contributory negligence)	(-) 1/10 (i.e. 112320) = 10,10,880/-	Nil
6.	Other conventional heads	Rs. 45,000/- (15,000+15,000+ 15,000)	Rs. 2,09,000/- (16,500+16,500+44,000 x 4)
	Total	**Rs. 10,55,880/-**	**Rs. 16,12,136/-**

13. In view of the aforesaid analysis, the amount of compensation of Rs.10,55,880/- awarded by the Claims Tribunal is enhanced to Rs.16,12,136/-. Hence, after deducting the amount of Rs.10,55,880/-, the appellants are held entitled for an additional amount of Rs.**5,56,256**/-. 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.

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

15. 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

Prashant