CGHC010324032023 2026:CGHC:47346

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MAC No. 1662 of 2023

1 - Smt Vinita Vani W/o Late Shri Sandeep Vani, Aged About 42 Years R/o Village Kharora, Ward No. 14, Police Station Kharora, Tahsil And District Raipur (Chhattisgarh).

2 - Semso Vani D/o Late Shri Sandeep Vani, Aged About 12 Years Minor Through Legal Guardian Mother Smt. Vinita Vani, R/o Village Kharora, Ward No. 14, Police Station Kharora, Tahsil And District Raipur (Chhattisgarh).

3 - Simroun Vani D/o Late Shri Sadndeep Vani, Aged About 6 Years Minor Through Legal Guardian Mother Smt. Vinita Vani, R/o Village Kharora, Ward No. 14, Police Station Kharora, Tahsil And District Raipur (Chhattisgarh).....(Note- Franslin Masih Died On 12/06/2023)

... Appellants

versus

1 - Shyam Kumar S/o Shri Shakarjit Aged About 46 Years R/o Village Chhatouna Yard, Police Station Mandir Hasoud, Tahsil And District Raipur (Chhattisgarh) Second Address- R/o Village Amakoni, Tahsil Sarangarh, District Raigarh (Chhattisgarh) New Sarangarh Bilaigarh (Chhattisgarh).....(**Driver** Of Alleged Vehicle Bearing Registration No. C.G.-04-Jb-0137)

2 - Sunil Kumar Agrawal S/o Shri Radheshyam Agrawal, Aged About 51 Years R/o G.E. Road, Raipur, Tahsil And District Raipur (Chhattisgarh)

Second Address- Near Girls College, Sevakunj Road, Raigarh, District Raigarh (Chhattisgarh).....(**Owner** Of Alleged Vehicle Bearing Registration No. C.G.-04-Jb-0137)

3 - The United India Insurance Company Limited, Through Manager- Address Lic Campus, Ground Floor, L.I.C. Building Pandri, Raipur, Tahsil And District Raipur (Chhattisgarh).....(**Insurer** Of Driver Of Alleged Vehicle Bearing Registration No. C.G.-04-Jb-0137)

... Respondents

For Appellants/Claimants	:	Mr. S.P. Sahu, Advocate.
For Respondent No. 2	:	None
For Respondent No. 3	:	Mr. Dashrath Gupta, Advocate

Hon'ble Shri Justice Sanjay Kumar Jaiswal
Order on Board

(17.11.2026)

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 14.03.2023, passed in Claim Case No.99/2021, whereby the learned Claims Tribunal has awarded a total sum of Rs.13,02,543/- **(wrongly mentioned/calculated as Rs.12,91,250/- in the impugned award)** as compensation for the death of Late Sandeep Wani, who died in a road accident which took place on 03.12.2019.

2. Learned counsel for the appellants submits that the learned Claims Tribunal has erred in awarding inadequate compensation

to the claimants and has failed to properly appreciate the income of the deceased, which was Rs.10,000/- per month, which is evident from the evidence of Sunil Lalwani (AW-02) in whose catering firm the deceased was working as catering operator and he used to given him Rs.10,000/- per month. He further submits that the learned Tribunal has wrongly assessed the future prospects at 25%, whereas the deceased was aged about 37 years at the time of accident. Thus, in view of the law laid down by the Hon'ble Supreme Court in ***National Insurance Company Ltd. v. Pranay Sethi & Others,***[1], future prospects ought to have been assessed at 40%. It is also submitted that the compensation awarded under the heads of loss of consortium is inadequate. Therefore, the compensation deserves to be suitably enhanced and the impugned award be modified accordingly.

3. None appeared for respondent No.2.

4. Mr. Dashrath Gupta, learned counsel appearing for respondent No.3/Insurance Company supporting the impugned award submits that the learned Claims Tribunal has awarded just and proper compensation, which needs no interference by this Court.

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

6. In the present case, the appellants/claimants pleaded before the Claims Tribunal that deceased, Sandeep Wani was earning

1 (2017) 16 SCC 680

Rs.10,000/- per month by doing catering operator work in the Sunil Lalwani's (AW-2) catering firm and they have also examined him before the learned Claims Tribunal who has given certificate (Ex.P—9), however, perusal of which goes to show that it is simply a printed paper having no registration number/GSTIN number of the respective firm, which castes serious doubt. Further, no documentary evidence or employment record has been produced to establish that the deceased Sandeep Wani was actually working under him or was earning Rs.10,000/- per month. The learned Tribunal has indeed taken the monthly income of the deceased to be Rs.7,000/- for unskilled labourer on the date of accident. Considering the deceased as unskilled labourer, it would proper to take his monthly income of Rs.8,600/- as per the Chhattisgarh Minimum Wages Notification issued by the office of Labour Commissioner, Chhattisgarh for skilled labour. Therefore, to that extent the impugned award needs to be modified.

7. It is further evident that the deceased was aged about 37 years at the time of the accident and was self employed. The learned Tribunal has assessed the future prospects at 25%. However, in view of the principles laid down by the Hon'ble Supreme Court in ***Pranay Sethi*** *(supra)*, an addition of 40% towards future prospects is applicable in the case of a deceased having self employed and falling within the relevant age bracket. Therefore, the learned Tribunal has erred in restricting the addition towards future prospects to 25%. It is not in dispute that the deceased left

behind four (4) dependents. Therefore, in accordance with the principles laid down by the Hon'ble Supreme Court, the appropriate deduction towards the personal and living expenses of the deceased would be 1/4th of his income. The learned Tribunal has correctly applied the deduction of 1/4th towards the personal and living expenses of the deceased, and the said finding calls for no interference. Further, considering the age of the deceased as 37 years at the time of the accident, the appropriate multiplier applicable for computation of loss of dependency is 15. The learned Tribunal has correctly applied the multiplier of 15, and the said finding is also affirmed.

8. The Tribunal has awarded a sum of Rs.15,000/- towards loss of estate and Rs.15,000/- towards funeral expenses, which, considering the date of the accident and the facts and circumstances of the case, is found to be just and proper and does not warrant any interference. However, with regard to the amount awarded towards consortium, the Tribunal has awarded Rs.40,000/- to Appellant/Claimant No.1, being the wife of the deceased, towards spousal consortium, and a further sum of Rs.40,000/- jointly to Claimant Nos.2 and 3, being the daughters of the deceased, and Claimant No.4, being the mother of the deceased, towards consortium. The said amount awarded jointly to the three claimants is not in accordance with the principles governing the award of consortium and is, therefore, found to be inadequate and warrants suitable modification in terms of the

principles laid down in ***Pranay Sethi*** (*supra*).

9. It is pertinent to note that although four claimants had filed the claim petition before the learned Claims Tribunal, only three of them have been impleaded as appellants in the present appeal. The mother of the deceased, namely, Franslin Masih, aged about 70 years, has not been arrayed as an appellant. No reason has been assigned for her non-impleadment in the present appeal. Therefore, while considering the enhancement of compensation towards consortium, the benefit thereof can be extended only to the three appellants before this Court, namely, Appellant No.1 (wife) and Appellant Nos.2 and 3 (daughters) of the deceased. The mother of the deceased, who has not preferred the present appeal, shall not be entitled to any enhancement towards consortium in this appeal.

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

Sr. No.	**Heads**	**Compensation awarded by the Tribunal**	**Compensation awarded by this Court**
1	Income	Rs.7000 x 12 = Rs.84,000/-	Rs.8,600 x 12 = Rs.1,03,200/-
2	Future prospect	(+)25% (i.e. Rs.21,000/-) = Rs.1,05,000/-	(+)40% (i.e. Rs. 41,280/-) = Rs.1,44,480/-

2(2018) 18 SCC 130

3	Deduction towards personal expenses	(-) 1/4 (i.e.Rs.26,250) = Rs.78,750/-	(-) 1/4 (i.e. Rs.36,120/-) = Rs.1,08,360/-
4	Multiplier	(x) 15 = Rs.11,81,250/-	(x) 15 = Rs.16,25,400/-
5	Towards Medical Expenses	Rs.11,293/-	Rs.11,293/-
6	Towards Loss of Estate	Rs.15,000/-	Rs.15,000/-
7	Towards Funeral Expenses	Rs.15,000/-	Rs.15,000/-
8	Towards consortium to all the 04 claimants	Rs.80,000/-	Rs.1,20,000/- (Rs.40,000 x 3)
	Total	**Rs. 13,02,543/-** (The Tribunal has wrongly calculated in the impugned awards as **Rs.12,91,250/-)**	**Rs. 17,86,693/-**

11. In view of the aforesaid analysis, the amount of compensation of Rs.13,02,543/- awarded by the Claims Tribunal is enhanced to Rs.17,86,693/-. Hence, after deducting the amount of Rs.13,02,543/-, the appellants are held entitled for an additional amount of **Rs.4,84,150/-**. The additional amount of compensation shall carry interest @ 6% per annum from the date of filing of the claim petition before the learned Claims Tribunal till its realization. Rest of the conditions of the impugned award shall remain intact.

12. In the result, the appeal is **partly allowed** and the impugned

award is modified to the extent as indicated herein-above.

13. 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

Digitally signed by VIJAY SHARATRAO PEKDE
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