CGHC010362342023

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MAC No. 1925 of 2023

1 - The New India Insurance Company Limited Mumbai, Branch Office Kevrabadi, Near Bus Stand Raigarh, Chhattisgarh.

... Appellant (s)

versus

1 - Punibai Chauhan W/o. Parsa Ram Chauhan, Aged About 63 Years Resident Village Kanaiedih Post Office Khemda, Tahsil Malkharauda District - Janjgir -Champa, Chhattisgarh. (Claimants)

2 - Laxman Gada S/o. Parsa Ram Chauhan, Aged About 45 Years Resident Village Kanaiedih Post Office Khemda, Tahsil Malkharauda District - Janjgir - Champa, Chhattisgarh.

3 - Kishan Chauhan S/o. Paras Ram Chauhan, Aged About 35 Years Resident Village Kanaiedih Post Office Khemda, Tahsil Malkharauda District - Janjgir -Champa, Chhattisgarh.

4 - Birbal Chauhan S/o. Paras Ram Chauhan, Aged About 34 Years Resident Village Kanaiedih Post Office Khemda, Tahsil Malkharauda District - Janjgir - Champa, Chhattisgarh.

5 - Mohan Lal Chauhan S/o. Paras Ram Chauhan, Aged About 30 Years Resident Village Kanaiedih Post Office Khemda, Tahsil Malkharauda District - Janjgir -Champa, Chhattisgarh.

YASMIN KHAN
Digitally signed by YASMIN KHAN
DN: cn=YASMIN KHAN, ou=HIGH COURT, o=HIGH COURT OF CHHATTISGARH, st=Chhattisgarh, c=IN
Date: 2026.10.30 11:53:34 +0530

6 - Mukesh Kumar Chauhan, S/o. Paras Ram Chauhan, Aged About 23 Years Resident Village Kanaiedih Post Office Khemda, Tahsil Malkharauda District - Janjgir -Champa, Chhattisgarh.

7 - Bhushan Singh Sidar S/o. Kartikram Sidar, Aged About 48 Years Resident Village Siriyagarh, Thana - Dabhra, District - Janjgir-Champa, Chhattisgarh. (Vehicle Driver)

8 - Vikram Agrawal S/o. Manish Agrawal Resident Village Ward No.4, Bajrangbali Chowk, Kanwali Dabhra, Tahsil - Dabhara, District - Janigir-Champa, Chhattisgarh. (Vehicle Owner)

... Respondent(s)

For Petitioner(s)	**:**	Shri Sudhir Agrawal and Shri Shashank Agrawal, Advocates
For Respondent(s)	**:**	None for the respondents despite services of notices

Hon'ble Shri Justice Sachin Singh Rajput,

Order on Board

27.10.2026

1) This appeal under Section 173 of Motor Vehicles Act, 1988 (for short " MV Act") has been filed by the appellant/claimant, challenging the award dated 18.07.2023 passed by the learned 1st Additional Motor Accident Claims Tribunal, Sakti, District- Janjgir - Champa, (CG) in Claim Case No.21/2022.

2) A claim application under Section 166 of the MV Act was filed by the respondent No.1 to 6/claimants seeking compensation of Rs.24,20,000/- on account of death of Parasram Chauhan in an accident that occurred on 10.03.2021. As per pleadings of the claim application, the deceased was returning from Village – Chaple at about

11.30 p.m. the offending truck bearing registration No.C.G.11 A.P. 4263 driven by respondent No.7/driver owned by respondent No.8/owner dashed to the TVS Jupiter Scooty No.C.G.11 A.W. 2294 in which the deceased was an occupant resulting into severe injuries and his death during treatment on 23.03.2021 in the hospital. As per further pleadings, the deceased was aged about 65 years and was a mason earning Rs.15,000/- per month. Thus, the above compensation was claimed.

3) The respondent No.7 and 8/driver and owner of the offending vehicle has not filed any written statement before the learned tribunal.

4) Appellant/insurance company has filed a written statement and pleaded that the accident had occurred on account of involvement of two vehicles but the driver/owner and insurance company of the scooty have not been arrayed party and the accident had occurred on account of rash and negligent driving of the driver of the scooty, the offending vehicle was driven in violation of terms and conditions of the insurance policy, thus the claim application may be rejected against it.

5) The tribunal has framed five issues and awarded the compensation of Rs.5,11,000/- in favour of the respondents No.1 to 6/claimants and appellant/insurance company held liable to pay compensation.

6) Mr. Agrawal, Advocate made three folds submissions. Firstly the amount of compensation is exaggerated; the finding of issue no.3 against the insurance company is perverse to the record; and the accident had occurred on account of negligence of the deceased himself, thus impugned order deserved to be set aside. He further submits that, though there was a national permit of the offending vehicle, however, at the time of accident, the offending vehicle was

being used in the territory of State of Chhattisgarh and there was no authorization letter to that effect, hence there was no valid and effective permit and there was a violation of terms and conditions of the insurance policy. Apart from this he submits that looking to the age of the deceased, the income assessed of the deceased was on the higher side and admittedly there is collusion of the two vehicle.

7) None appeared on behalf of the respondents despite services of notice.

8) I have heard learned counsel for the appellant/claimant, considered their rival submissions and perused the records.

9) This Court would deal with the contentions raised by learned counsel for the appellant one by one. The first contention is with regard to amount compensation exaggerated, the tribunal found the monthly income of the deceased to Rs.7,000/- taking into consideration that on the date of accident the age and nature of job, this Court does not find any illegality or irregularity in finding the income. The learned claims tribunal has relying upon the judgment of **National Insurance Company Ltd. V. Pranay Sethi and others; (2017) 16 SCC 680,** has awarded the above stated compensation which includes the loss of consortium, the loss of estate, medical expenses and applied appropriate multiplier. In the opinion of this Court the amount of compensation awarded cannot be said to be excessive and thus this contention is rejected. The second submission of the learned counsel for the appellant/claimant is with respect of negligence on the part of deceased. Admittedly the deceased was not driving the scooty and according to the evidence available on record, the offending vehicle dashed the scooty from behind. Even otherwise, it is not a case of

contributory negligence rather it is a case of composite negligence as held in the judgment of Supreme Court in the case of **T.O. Antony v. Karvarnan (2008) 3 SCC 748,** thus, this contention is rebutted. Now the last contention of learned counsel for the appellant/claimant is with regard to violation of terms and conditions of the insurance policy and no authorisation letter was there to ply the vehicle in the territory of State of Chhattisgarh. For that purpose, the learned claims tribunal framed the issue no.3. While deciding the issue No.3, the claims tribunal found that goods carrier permit was valid from 11.08.2018 to 10.08.2023. The arguments has been advanced that as the authorisation letter given by the RTO was between 10.08.2018 to 18.10.2019 and on the date of accident there was no authorization letter thus, the permit has come to an end. The learned claims tribunal on assessment has decided the issue against the appellant. The arguments advanced by learned counsel for the appellant/claimant does not hold water in the light of judgment of Supreme Court in the case of ***Binod Kumar Singh Vs. National Insurance Company Limited (2025) 10 SCC 173*** in which it is held that the insurance company could not have refuted claim on such a frivolous ground. It has been observed in paragraph – 7 as under :-

> *"7.This Court has carefully gone through the permit which is on record and the National Permit is certainly valid up to 13-10-2017. The authorisation fee was required to be paid only when the truck was moving out of the State of Bihar as it was registered in the State of Bihar and the truck caught fire on account of short-circuit on 8-6-2014 in the State of Bihar itself and, therefore, the respondent Company could not have repudiated the claim on such a frivolous ground. The permit in question was issued by the competent authority in Bihar and, therefore, there was no requirement of paying authorisation fee when the truck was being used in the State of Bihar and as per the terms and conditions of the National Permit, authorisation fee was required to be paid only when the ruck was moving out of the State of Bihar."*

10) Relying upon the above judgment of Supreme Court this Court in case of **MAC No.44/2024** vide order dated **24.03.2026** parties ***"The New India Assurance Company Ltd. Vs. Bhanu Mandavi and ors."*** held that the insurance company was liable to pay compensation in absence of any authorisation of the permit. Thus, this contention is also rejected consequently the appeal does not have merit, liable to be and is hereby dismissed.

11) No costs.

Sd/-

(Sachin Singh Rajput)
Judge

yasmin