BHOLA NATH KHATAI
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NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MAC No. 2413 of 2024

1 - Phoolmati W/o Niranjan Yadav Aged About 40 Years R/o Village - Semipali Police Station - Dharamjaigarh District - Raigarh (C.G.) Present Address - Village Badmar Police Station And Tehsil - Kartala District - Korba (C.G.)

2 - Niranjan Yadav S/o Gopal Aged About 42 Years R/o Village - Semipali Police Station - Dharamjaigarh District - Raigarh (C.G.) Present Address - Village Badmar Police Station And Tehsil - Kartala District - Korba (C.G.) (Claimants)

... Appellant(s)

versus

1 - Devendra Baiga S/o Late Jagrath Baiga R/o Village Semipali Police Station - Dharamjaigarh District - Raigarh (C.G.) (Driver Of Motorcycle No. C.G. 13/ AU/ 5982)

2 - Bhupendra S/o Late Jagrath Baiga R/o Village Semipali Police Station Dharamjaigarh District - Raigarh (C.G.) (Ower Of Motorcycle No. C.G. 13/AU / 5982)

3 – Manager, MAGMA HDI General Insurance Company Limited Divisional Office Development House 24 Park Street Kolkata 700016 Branch Office Block -1 Pujari Complex First Floor Dharam Nagar Taigore Raipur (C.G.) (Insurer Of Motorcycle C.G. 12/AU / 5982)

... Respondent(s)

For Appellant(s)	:	Ms. Priya Kaiwart, Advocate
For Respondent No.3	:	Ms. Aditi Diwan, Advocate

Hon'ble Shri Justice Sanjay Kumar Jaiswal
Order on Board

(04.11.2026)

1. This appeal under Section 173 of the Motor Vehicles Act, 1988 has been preferred by the appellants/claimants seeking enhancement of the amount of compensation awarded by the Motor Accident Claims Tribunal (FTC), Korba, District Korba (C.G.), vide impugned award dated 20.09.2024 passed in Claim Case No.141/2023, whereby the Tribunal has awarded a total sum of Rs.16,55,264/- as compensation on account of the death of Leshan Yadav, who died in a motor vehicle accident that occurred on 28.08.2023.

2. Learned counsel appearing for the appellants submits that the amount awarded under the conventional heads is on the lower side and deserves suitable enhancement in accordance with the settled principles of law. Learned counsel for the appellants further submits that, the driver of the offending vehicle was not holding a valid and effective driving licence to drive the said vehicle, which constituted a breach of the terms and conditions of the insurance policy. On this ground, the Claims Tribunal has exonerated respondent No.3/Insurance Company from its liability. However, it is contended that, since the offending vehicle was duly insured with respondent No.3/Insurance Company on the date of the accident, the principle of 'pay and recover' ought to be applied, thereby directing the Insurance Company to first satisfy the award and thereafter recover the amount so paid from the owner and driver of the offending vehicle.

3. Per contra, learned counsel appearing for respondent No.3/Insurance Company supports the impugned award and submits that the award passed by the Tribunal is just, fair and reasonable and does not warrant any interference by this Court.

4. I have heard learned counsel for the parties, considered their rival submissions and carefully perused the record of the case.

5. Upon perusal of the impugned award, it is evident that the Claims Tribunal has awarded Rs.15,000/- towards loss of estate, Rs.15,000/- towards funeral expenses and Rs.40,000/- each towards loss of consortium to the two claimants, totalling Rs.80,000/- under the head of loss of consortium. Thus, the total compensation awarded under the conventional heads comes to Rs.1,10,000/-.

6. As per the judgment of the Hon'ble Supreme Court in ***National Insurance Company Ltd. v. Pranay Sethi*****, (2017) 16 SCC 680,** the amounts awarded under the conventional heads are liable to be enhanced by 10% at an interval of every three years from the date of the judgment, i.e., 31.10.2017. Since the accident in the present case occurred on 28.08.2023, after the expiry of two successive periods of three years from the date of the judgment, the amounts under the conventional heads are liable to be enhanced accordingly. Thus, the amount payable towards loss of estate and funeral expenses is enhanced to Rs.18,000/- each, whereas the amount payable towards loss of consortium is enhanced to Rs.48,000/- each for the two claimants, totalling Rs.96,000/-.

7. Accordingly, the compensation payable under the

conventional heads is recomputed as under:

Head	Amount
Loss of Estate	Rs.18,000/-
Funeral Expenses	Rs.18,000/-
Loss of Consortium (Rs.48,000/- × 2)	Rs.96,000/-
Total	**Rs.1,32,000/-**

8. Since the Tribunal has already awarded a sum of Rs.1,10,000/- under the conventional heads, the appellants/claimants are entitled to an additional sum of Rs.22,000/- (1,32,000 – 1,10,000) towards the said heads.

9. Consequently, the appellants/claimants shall be entitled to an enhanced compensation of **Rs.22,000/-** over and above the amount already awarded by the Tribunal. The aforesaid enhanced amount shall carry interest at the rate of 6% per annum from the date of filing of the claim petition till its actual realization.

10. So far as the prayer for application of the principle of 'pay and recover' is concerned, it is evident from the evidence available on record that the Claims Tribunal has exonerated the Insurance Company from its liability on the ground that the driver of the offending vehicle was not holding a valid and effective driving licence to drive the said vehicle on the date of the accident. However, the offending vehicle was duly insured with the respondent/Insurance Company on the date of the accident, and the insurance policy has been exhibited as Ex. D-1. Therefore, considering the principle laid down by the Hon'ble Supreme Court in the case of **Rama Bai Vs. Amit Minerals through Incharge Officer/Competent Officer and Another,** reported in **2025 SCC OnLine SC 2067**, it is directed that the insurance company shall **first pay** the

amount of compensation to the appellants/claimants and then recover the same from the owner and driver of the offending vehicle. The remaining terms and conditions of the impugned award shall remain unaltered.

11. Accordingly, the appeal stands **partly allowed** and the impugned award is modified to the extent indicated hereinabove.

12. The Registry is directed to communicate the claimants in writing "the enhanced/additional 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 reside.

Sd/-
(Sanjay Kumar Jaiswal)
Judge

Khatai