CGHC010379492018 2026:CGHC:30361

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MAC No. 1902 of 2018

1. Sushila Bhoi W/o Late Karmulal Bhoi, Aged About 30 Years;
2. Akash Bhoi S/o Late Karmulal Bhoi, Aged About 12 Years;
3. Barsa Bhoi S/o Late Karmulal Bhoi, Aged About 7 Years;
4. Janhvi Bhoi D/o Late Karmulal Bhoi, Aged About 6 Years;
5. Nisha Bhoi D/o Late Karmulal Bhoi, Aged About 3 Years;
   Appellants No.2 to 5 being Minor Through Natural Guardian Mother Smt. Sushila Bhoi;
6. Chandramani Bhoi S/o Late Sankirtan Bhoi, Aged About 54 Years;
7. Malti Bhoi W/o Chandramani Bhoi, Aged About 50 Years;
8. Raju Bhoi S/o Chandramani Bhoi, Aged About 19 Years;
   All are R/o Village Kukripali, Post Bhandarpur, Police Station Jharband, Tahsil Padmpur, District Bargarh, Orissa.

--- **Appellants**

versus

1. Mohd. Sheikh Hussain S/o Jafar Mahammad, Aged About 43 Years, R/o Through Birendra Sahu, old Rawanbhata, Mahasamund, P.S., Tahsil & District Mahasamund, Chhattisgarh. Second Address Kukripara Raipur, Hall Saluja Colony Pithoura Tahsil Pithoura, District Mahasamund Chhattisgarh.(Driver Of Vehicle No. C.G. 04 LN/3276)
2. D.P. Bishal S/o Pitamber Bishal, R/o Village And Post Sankra, Police Station Sankra, Tahsil Pithoura, District

Mahasamund Chhattisgarh. (Owner of vehicle No. C.G. 04 LN/3276).

3. ICICI Lumbord General Insurance Company Limited Commercial Building Devendra Nagar Chowk Sai Nagar Raipur District Raipur Chhattisgarh. (Insurer Of Vehicle No. C.G.04 LN/3276).

--- **Respondents**

For Appellants	:-	Mr. Sunil Sahu, Advocate.
For Respondent No.1	:-	Mr. Sunil Verma, Advocate.
For Respondent No.3	:-	Mr. Sourabh Gupta, Advocate, appears on behalf of Mr. Sourabh Sharma, Advocate.

<u>MAC No. 149 of 2019</u>

- ICICI Lumbard General Insurance Company Limited, Through Its Legal Manger, Vanijya Bhawan, Ground Floor, Devendra Nagar, Raipur, Chhattisgarh.

--- **Appellant**

Versus

1. Sushila Bhoi W/o Late Karmulal Bhoi, Aged About 30 Years;
2. Akash Bhoi S/o Late Karmulal Bhoi Aged About 12 Years;
3. Barsa Bhoi D/o Late Karmulal Bhoi Aged About 7 Years;
4. Janvhi Bhoi D/o Late Karmulal Bhoi Aged About 6 Years;
5. Nisha Bhoi D/o Late Karmulal Bhoi Aged About 3 Years;
   Appellants No. 2 to 5 being Minor Through Legal Guardian Mother Smt. Sushila Bhoi;
6. Chandramani Bhoi S/o Late Sankritan Bhoi Aged About 54 Years;
7. Malti Bhoi W/o Chandramani Bhio, Aged About 50 Years;
8. Raju Bhoi S/o Chandramani Bhoi Aged About 19 Years;
   All are R/o Village Kukripali, Post Bhandarpuri, Police Station Jharband, Tahsil Padmpur, District Bargarh Odisa.

9. Mohd. Sheikh Hussain S/o Jafar Mohammad, Aged About 43 Years, R/o Through Berendra Sahu Old Rawanbhata Mahasamund, Police Station Tahsil And District Mahasamunda Chhattisgarh. Second Address Kukripara Raipur Hall Saluja Colony Pithoura Tahsil Pithoura District Mahasamunda Chhattisgarh. (Driver)
10. D.P Bishal S/o Pitamaber Bishal R/o Village And Post Sankra, Police Station Sankra, Tahsil Pithoura, District Mahasamund Chhattisgarh. (Owner).

--- **Respondents**

For Appellant	:-	Mr. Sourabh Gupta, Advocate, appears on behalf of Mr. Sourabh Sharma, Advocate.
For Respondents No.1 to 8	:-	Mr. Sunil Sahu, Advocate.
For Respondent No.9	:-	Mr. Sunil Verma, Advocate.

SB- Hon'ble Shri Justice Sanjay K. Agrawal
Order On Board

17.07.2026

1. Since the common question of law and facts are involved in the present two appeals, they have been clubbed together, heard together and are being decided by this common judgment.

2. Out of two appeals one MAC No.1902 of 2018 has been filed by the claimants and another MAC No.149 of 2019 has been filed by the Insurance Company under Section 173 of the Motor Vehicles Act, 1988 (for short “Act of 1988”). The claimants have filed the appeal against the impugned award dated 15.10.2018, passed by the Motor Accident Claims Tribunal, Mahasamund, Chhattisgarh (for short “Claims

Tribunal") in Claim Case No. 115/2017 seeking enhancement in the compensation amount, whereas, the Insurance Company has filed the appeal against the said impugned award for exoneration from its liability. In the impugned award the Claims Tribunal has allowed the claimants' application and awarded a sum of ₹7,78,260/- as compensation along with interest after deducting 25% amount towards the contributory negligence.

3. Mr. Sourabh Gupta, learned counsel for the Insurance Company, would submit that driver Mohd. Sheikh Hussain, has falsely implanted as the offending vehicle was driven by owner's son Ritendra Bishal, therefore, Insurance Company is not liable to pay the compensation to the claimants.

4. Mr. Sunil Sahu, learned counsel for the claimants, would submit that 25% compensation has been deducted towards contributory negligence on the ground that on the offending vehicle 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**[1], as such, the 25% compensation amount is liable to be enhanced.

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[1] AIR 2020 SC 520

5. Mr. Sunil Verma, learned counsel for driver, would submit that the driver is not liable to pay the compensation amount.

6. I have heard learned counsel for the parties, considered their rival submissions made herein above and gone through the records minutely.

7. So far as the appeal of the Insurance Company is concerned, in order to demonstrate the fact that owner's son was driving the vehicle, Insurance Company has examined Sunil Komdekar (DW-1). DW-1 has stated that on account of some shared information, he got to know that owner's son was the driver of the vehicle, but with regard to witness to the incident no one was examined by the Insurance Company and source of information also not clearly disclosed by DW-1, as such, the Claims Tribunal has rightly held in para 14 of the impugned award that person who has seen the owner's son driving the vehicle has not been examined. In that view of the matter, I do not find any merit in the appeal of the Insurance Company, accordingly, the same is rejected.

8. Now, appeal of the claimants is concerned, the only contention raised on behalf of the claimants is that 25% compensation towards the contributory negligence has wrongly been deducted by the Claims Tribunal.

9. Admittedly, the Claims Tribunal has awarded total compensation to the tune of **₹10,37,680/**- and after deducting 25% compensation towards the contributory negligence on the ground that on the motor vehicle three persons were traveling has awarded **₹7,78,260/-** to the claimants, however, the said finding of the Claims Tribunal runs contrary to the decision of the Supreme Court in the matter of **Mohammed Siddique** (supra). Accordingly, deduction of 25% compensation is set aside and the claimants are held to be entitled to amount of **₹10,37,680/-**, as awarded by the Claims Tribunal before deducting 25% amount towards the contributory negligence. However, the other direction contained in the impugned award shall remain as it is and the same is applicable on the amount enhanced by this Court.

10. Accordingly, the appeal of the Insurance Company i.e. MAC No. 149 of 2019 is **dismissed**. The appeal of the claimants i.e. MAC No.1902 of 2018 is **allowed in part** and the impugned award is modified to the extent as indicated herein-above.

Sd/-
(Sanjay K. Agrawal)
Judge

Ankit