



CGHC010097342019



2026:CGHC:27926

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MAC No. 616 of 2019

- 1** - Smt. Radha Bai W/o Late Rakesh Aged About 28 Years R/o Village Jampani, Police Station Baikunthpur, District Koriya Chhattisgarh., District : Koriya (Baikunthpur), Chhattisgarh
- 2** - Vikas S/o Late Rakesh Aged About 10 Years Through Natural Guardian Smt. Radha Bai, R/o Village Jampani, Police Station Baikunthpur, District Koriya Chhattisgarh., District : Koriya (Baikunthpur), Chhattisgarh
- 3** - Subhash S/o Late Rakesh Aged About 8 Years Through Natural Guardian Smt. Radha Bai, R/o Village Jampani, Police Station Baikunthpur, District Koriya Chhattisgarh., District : Koriya (Baikunthpur), Chhattisgarh
- 4** - Avinash S/o Late Rakesh Aged About 3 Years Through Natural Guardian Smt. Radha Bai, R/o Village Jampani, Police Station Baikunthpur, District Koriya Chhattisgarh., District : Koriya (Baikunthpur), Chhattisgarh
- Appellant(s)**

versus

- 1** - Chandu Markam S/o Roopsai Markam Aged About 26 Years R/o Village Mahewa, Police Station- Raghunathnagar, District Balrampur- Ramanujganj Chhattisgarh., District : Balrampur, Chhattisgarh
- 2** - Shiv Kumar Singh S/o Late Ramdev Singh Aged About 47 Years R/o Village- Gelhapani, Police Station Chirmiri, District Koriya Chhattisgarh., District : Koriya (Baikunthpur), Chhattisgarh
- 3** - New India Assurance Co. Ltd. Micro Branch, Shopo No.7, Mahendra Complex, Manendragarh Road, Khogopani, Manendragarh, District Koriya Chhattisgarh., District : Koriya (Baikunthpur), Chhattisgarh
- Respondent(s)**

For Appellant : Mr. Vijay Kumar Sahu, Advocate

For Respondent No. 3 : Mr. Deepak Gupta, Advocate

Hon'ble Shri Sanjay K. Agrawal, Judge
Order on Board

07.07.2026

1. This appeal has been filed by the appellants/claimants under Section 173 of the Motor Vehicles Act, 1988 (for short "Act of 1988") seeking enhancement in the compensation amount, against the impugned award dated 30.09.2017 passed by the Learned Additional Motor Accident Claims Tribunal, Baikunthpur, District Koriya, Chhattisgarh (for short "Claims Tribunal") in Claim Case No. 29/2018, whereby the Claims Tribunal allowed the claimants' application and awarded Rs. 4,55,400/- along with interest for death of Rakesh.
2. Learned counsel for the appellants, would submit that learned counsel for the appellants would submit that the learned Claims Tribunal has illegally deducted 40% of the compensation on account of contributory negligence solely on the ground that the deceased was not possessing a valid driving licence, despite there being no evidence on record to establish that the accident occurred due to any negligence on the part of the deceased. The finding is contrary to the evidence available on record as well as the settled principles of law governing contributory negligence. He would also submit that the Claims Tribunal has erred in awarding the less compensation. He would also submit that the Claims Tribunal erred in assessing income of the deceased Rs. 3000/- per month which should be Rs. 7980/- per month as per Chhattisgarh Minimum Wages Notification issued by the office of the Labour Commissioner, Chhattisgarh. He would further submit that under the head of consortium amount has not been awarded by the Claims Tribunal which is liable to be awarded. In support of his submissions, learned counsel placed reliance upon the judgment of this Court in the matter of **Thameswar Deshmukh Vs. Devendra Pratap Singh** in MAC No. 962 of 2022.
3. Per contra, learned counsel appearing for the respondent No.3/Insurance Company opposed the submissions advanced on behalf of the appellants and submitted that the learned Claims Tribunal has awarded just and reasonable compensation, which does not warrant any enhancement. It is further contended that the Tribunal has rightly de-

ducted 40% of the compensation on account of contributory negligence, as the deceased was admittedly not holding a valid driving licence at the time of the accident. Learned counsel for the respondent No. 3 would further submit that the impugned award is well reasoned and calls for no interference by this Court. In support of his submissions, learned counsel placed reliance upon the judgments of the Hon'ble Supreme Court in **Archit Saini and Another v. Oriental Insurance Company Limited and Others**¹, and **Nishan Singh and Others v. Oriental Insurance Company Limited through Regional Manager and Others**², reported in (2018) 6 SCC 765.

4. I have heard learned counsel for the parties, considered their rival submissions made herein above and gone through the records minutely.
5. Though the respondent No.3/Insurance Company had raised a plea that the deceased was not holding a valid driving licence at the time of the accident. The learned Claims Tribunal accepted the said plea and attributed 40% contributory negligence to the deceased solely on that basis. However, mere absence of a valid driving licence cannot, by itself, lead to an inference of contributory negligence. Driving a vehicle without a valid driving licence may constitute a statutory violation and expose the driver to other legal consequences, but it does not automatically establish that the accident occurred due to his negligence.
6. The Hon'ble Supreme Court in **Saraswati Palariya and Others v. New India Assurance Company Ltd. and Others**³ has held that driving without a valid driving licence does not, by itself, justify a finding of contributory negligence. It has been further held that such a statutory violation may expose the person concerned to other liabilities, but no inference of contributory negligence can be drawn solely on that basis. Likewise, in **Prabhavati and Others v. Managing Director, Bangalore Metropolitan Transport Corporation**⁴, while relying upon **Jiju Ku-**

12018) 3 SCC 365

2(2018) 6 SCC 765

32018 SCC Online SC 3988

42025 SCC Online SC 455

ruvila v. Kunjamma Mohan⁵, the Hon'ble Supreme Court has held that a plea of contributory negligence must be supported by cogent evidence and cannot rest on mere assumptions or conjectures.

7. In the facts of the present case, there is no evidence whatsoever to establish that the deceased had contributed to the accident. Therefore, the finding of the learned Claims Tribunal attributing 40% contributory negligence to the deceased merely because he was not holding a valid driving licence is legally unsustainable and deserves to be set aside. Accordingly, deduction of 40% compensation is set aside.
8. Furthermore, learned Claims Tribunal assessed the monthly income of deceased to be 3000/- however, in the opinion of this Court, as per the Chhattisgarh Minimum Wages Notification issued by the office of Labour Commissioner, Chhattisgarh, the monthly income of the deceased should be 7980/- (as per minimum wages prescribed at relevant time). Accordingly, the monthly income of the deceased is liable to be reassessed at Rs. 7980/-. Further, the Claims Tribunal has not awarded any amount under the conventional head of consortium to the appellants/claimants No. 2 to 4. In view of the law laid down by the Hon'ble Supreme Court, the claimants/appellants No. 2 to 4 are also entitled to compensation under the said head.
9. 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**⁶, **Sarla Verma & Ors. Vs. Delhi Transport Corporation & Ors**⁷ and **Magma General Insurance Co. Ltd. v. Nanu Ram @ Chuhru Ram & Ors.**⁸, this Court is computing the compensation as below:-

Sr. No	Heads	Compensation awarded by the Tribunal	Compensation awarded by this Court
1.	Income	3000/-	7980/-

5 2013 9 SCC 166

6(2017) 16 SCC 680

7 (2009) 6 SCC 121

8(2018) 18 SCC 130

2.	Future Prospect	+)50% 1500/-; Total 4500	(+)40% 3192/-; Total 11,172/-
3.	Deduction	(-)1/4 i.e. Rs. 1125/- =3375	(-)1/4 i.e. 2793/- = 8379/-
4.	Multiplier	(x) 17	(x) 17
6.	Annual Income	3375 x 12= 40500 x 17= 6,88,500/-	8379 x12 = 100,548 x 17 = 17,09,316/-
7.	Loss of Estate	15,000/-	15,000/-
8.	Funeral Expenses	15,000/-	15,000/-
9.	Loss of Consortium	40000/-	40,000x4 =160,000/-
10.	Deduction on account of contributory negligence	(-)40% 7,58,800) =3,03,400/-	of NIL
	Total	4,55,400/-	18,99,316/-

10.In view of the aforesaid analysis, the amount of compensation of Rs. **4,55,400/-** awarded by the Claims Tribunal is enhanced to Rs. **18,99,316/-**. Hence, after deducting the amount of Rs. **4,55,400/-**, the appellants/claimants are held to be entitled to an additional amount of Rs. **14,43,916/-**. The concerned respondent is directed to deposit the amount of compensation as enhanced by this Court within a period of three months from the date of receipt of copy of this order. The additional amount of compensation shall carry interest @6% per annum from the date of filing of claim application before the Tribunal till its realization. Rest of the conditions of the impugned award shall remain intact.

11.Accordingly, this appeal is allowed in part and the impugned award is modified to the extent as indicated herein-above.

Sd/-
(Sanjay K. Agrawal)
Judge