



2025:CGHC:42509

AFR**HIGH COURT OF CHHATTISGARH AT BILASPUR****MAC No. 1204 of 2018**

Oriental Insurance Company Private Limited Raipur, Madeena Building
Kutchary Chowk Raipur, Chhattisgarh...(Insurer Of Vehicle Tractor No.
C.G. 04 ZQ- 1697 And Trolley No. C.G. 10 A- 0013)

... Appellant**versus**

1 - Smt. Geeta W/o Late Jeetu Jangde Aged About 30 Years R/o Village
Latuwa Thana And Tehsil Baloda Bazar, District- Baloda-Bazar,
Chhattisgarh, At Present Address- Dodekhurd Brick Manufacturing
Place Thana And Tehsil Dharsiwa, District- Raipur, Chhattisgarh.

2 - Neelam D/o Late Jeetu Jangde Aged About 13 Years Are Minor
Through Mother Respondent No.1 Smt. Geeta W/o Late Jeetu Jande,
R/o Village Latuwa Thana And Tehsil Baloda Bazar, District- Baloda-
Bazar, Chhattisgarh, At Present Address- Dodekhurd Brick
Manufacturing Place Thana And Tehsil Dharsiwa, District- Raipur,
Chhattisgarh.

3 - Aman S/o Late Jeetu Jangde, Aged About 12 Years Are Minor
Through Mother Respondent No.1 Smt. Geeta W/o Late Jeetu Jande,
R/o Village Latuwa Thana And Tehsil Baloda Bazar, District- Baloda-
Bazar, Chhattisgarh, At Present Address- Dodekhurd Brick
Manufacturing Place Thana And Tehsil Dharsiwa, District- Raipur,
Chhattisgarh.

4 - Karina D/o Late Jeetu Jangde, Aged About 10 Years Are Minor
Through Mother Respondent No.1 Smt. Geeta W/o Late Jeetu Jande,
R/o Village Latuwa Thana And Tehsil Baloda Bazar, District- Baloda-
Bazar, Chhattisgarh, At Present Address- Dodekhurd Brick
Manufacturing Place Thana And Tehsil Dharsiwa, District- Raipur,
Chhattisgarh.

5 - Karan S/o Late Jeetu Jangde Aged About 8 Years Are Minor
Through Mother Respondent No.1 Smt. Geeta W/o Late Jeetu Jande,
R/o Village Latuwa Thana And Tehsil Baloda Bazar, District- Baloda-



Bazar, Chhattisgarh, At Present Address- Dodekhurd Brick Manufecturing Place Thana And Tehsil Dharsiwa, District- Raipur, Chhattisgarh.

6 - Ku. Reena D/o Late Jeetu Jangde Aged About 6 Years Are Minor Through Mother Respondent No.1 Smt. Geeta W/o Late Jeetu Jande, R/o Village Latuwa Thana And Tehsil Baloda Bazar, District- Baloda-Bazar, Chhattisgarh, At Present Address- Dodekhurd Brick Manufecturing Place Thana And Tehsil Dharsiwa, District- Raipur, Chhattisgarh.

7 - Aakash S/o Late Jeetu Jangde Aged About 3 Years Are Minor Through Mother Respondent No.1 Smt. Geeta W/o Late Jeetu Jande, R/o Village Latuwa Thana And Tehsil Baloda Bazar, District- Baloda-Bazar, Chhattisgarh, At Present Address- Dodekhurd Brick Manufecturing Place Thana And Tehsil Dharsiwa, District- Raipur, Chhattisgarh.

8 - Ramdas S/o Dayaram Jangde Aged About 70 Years R/o Village Latuwa Thana And Tehsil Baloda Bazar, District- Baloda-Bazar, Chhattisgarh, At Present Address- Dodekhurd Brick Manufecturing Place Thana And Tehsil Dharsiwa, District- Raipur, Chhattisgarh.

9 - Kishor Yadav S/o Radheshyam Aged About 22 Years Resident Mathpuraina Near House Of Rakesh Chakradhari Thana Tikrapara Raipur, Chhattisgarh.....(Driver Of Vehicle Tractor No. C.G. 04 ZQ/1697 And Trolley No. C.G. 10A-0013).

10 - Ramesh S/o Paltiram Chakaradhari resident Mathpuraina Near Brick Furnace, Thana Tikrapara, Raipur, Chhattisgarh. (Owner Of Vehicle Tractor No. C.G. 04 ZQ/1697).

11 - Rajesh Shrivastava Resident Through Ramesh S/o Paltiram Chakradhari Mathpuraina Raipur, Chhattisgarh....(Owner Of Vehicle Trolley No. C.G.10A-0013).

12 - Mahendra Singh Chouhan S/o Kamdev Chouhan Resident Gouregaan, Keshkal District- Kanker, Chhattisgarh.

... Respondents

(Cause-title taken from Case Information System)

For Appellant	:	Mr. Sudhir Agrawal, Advocate
For Respondents No.1 to 8	:	None, though served
For Respondents No. 9 & 10	:	Mr. Santosh Kumar Sahu, Advocate



Hon'ble Shri Amitendra Kishore Prasad, Judge

Judgment on Board

21.08.2025

1. The present appeal is directed against the award dated 29.01.2018, passed by the learned 9th Additional Motor Accident Claims Tribunal, Raipur (C.G.) (hereinafter referred to as the 'Claims Tribunal') in Claim Case No.1000/2014, whereby compensation of Rs.8,30,400/- with interest at the rate of 9% per annum from the date of filing of the claim application till its realization, has been awarded in favour of claimants on account of death of one Jeetu Jangde and liability to satisfy the award has been fastened upon non-applicants No.1 to 4 jointly and severally.
2. Briefly stated, the facts of the case are that on 14.05.2012 at about 4:30 p.m., the deceased was going to the field in a tractor bearing registration No. CG-04-ZQ-1697 with trolley No. CG-10-A-0013 (hereinafter referred to as "offending vehicle"). On the way near Muzgahan on Muzgahan–Seoni Road, the offending vehicle, driven rashly and negligently by its driver, overturned into a roadside ditch, as a result of which the deceased was trapped in the vehicle and sustained grievous injuries. He was admitted to Mekara Hospital for treatment, where he succumbed on 15.05.2012. An FIR was lodged at Police Station Tikrapara, Raipur, and Crime No. 262/2012 was registered against Non-



applicant No.1 for offences under Sections 279, 338, and 304-A of the Indian Penal Code, 1860.

3. The claimants, being the legal representatives of the deceased filed a claim petition seeking compensation of Rs.13,60,000/- under various heads.
4. Upon appreciation of the pleadings, as well as oral and documentary evidence brought on record by the respective parties, the learned Claims Tribunal awarded compensation of Rs.8,30,400/- along with interest at the rate of 9% per annum from the date of filing of the claim petition till its realization and fastened the liability to satisfy the award upon non-applicants No.1 to 4 jointly and severally.
5. Learned counsel for the appellant/Insurance Company submits that the deceased was an occupant of the offending vehicle; however, no premium had been paid for such an occupant. It is further submitted that the deceased was not an employee of the owner of the offending vehicle, and therefore, the Insurance Company is not liable to indemnify the compensation. The insurance policy in question was an 'Act only policy.' It is further contended that the deceased was seated on the tractor, whereas the tractor has only one seat meant for the driver, and no provision for carrying any other occupant. Thus, the claimants are not entitled to any compensation on account of the death of Jeetu Jangde. Reliance has been placed on the judgment of the Division



Bench of this Court in **MAC No.346/2015; parties being Nutan Sahu v. Hemlal Nishad and others decided on 25.01.2021** as also upon the judgment rendered by the Hon'ble Supreme Court in **Rikhi Ram and others v. Sukhrania and others, (2003) 3 SCC 97.**

6. On the other hand, learned counsel for respondents No.9 and 10/ driver and owner of the offending vehicle supports the award passed by the learned Claims Tribunal and submits that upon appreciating the materials available on record, the learned Claims Tribunal has awarded just and proper amount of compensation, which does not call for any interference.
7. I have heard learned counsel for the respective parties and perused the record with utmost circumspection.
8. From perusal of the record, it appears that the offending vehicle was duly insured with Oriental Insurance Company Limited and was being run in consonance with the terms of the insurance policy. It further appears that the deceased was sitting in the trolley of the tractor as a labourer. The evidence discloses that the tractor and trolley were engaged in agricultural purposes, and on the date of the incident, the trolley was loaded with manure. The deceased was seated therein for the purpose of unloading the manure in the agricultural field. Dharmendra Jangde (AW-2) has specifically deposed in his evidence that in the tractor in which his brother Jeetu was sitting, one person named Chaituram was also sitting,



while Sharad Thakkar (NAW-1(4)) has deposed that under the said policy, the Insurance Company bears risk only in respect of the driver of the tractor, for which a specific premium is charged. No premium is payable in respect of any other person. In cross-examination, he admitted that apart from the driver the seating capacity including driver was 3 + 1.

9. From the overall evidence, it is apparent that the deceased was travelling in the tractor-trolley which was being used for agricultural purposes. Therefore, there was no breach of the policy conditions. Consequently, the learned Claims Tribunal has rightly fastened the liability upon the Insurance Company, which does not warrant interference by this Court.
10. It is pertinent to mention that though the claimants have neither appeared before this Court nor filed any cross-objection/cross-appeal seeking enhancement, looking to the benevolent nature of the legislation under the Motor Vehicles Act, and in view of the law laid down by the Hon'ble Supreme Court that even in absence of cross-objection, the Court is empowered to enhance the compensation if the award is found to be inadequate.
11. Recently, in a judgment rendered by the Hon'ble Supreme Court in ***Surekha W/o Rajendra Nakhate and others v. Santosh S/o Namdeo Jadhav and others*** passed in ***Civil Appeal No.476 of 2020 dated 21.1.2020***, in which the Hon'ble Supreme Court has held as under:



“2. Denial of enhanced compensation on ground that claimants failed to file cross appeal, Court should not take hyper technical approach and ensure that just compensation is awarded to affected person or claimants.

3. By now, it is well-settled that in the matter of insurance claim compensation in reference to the motor accident, the court should not take hyper technical approach and ensure that just compensation is awarded to the affected person or the claimants.”

12. On a careful reading of the aforesaid judgment, it is apparent that even in the absence of a cross-appeal or cross-objection, the Court is empowered to award just and proper compensation, keeping in mind the benevolent object of the legislation under the Motor Vehicles Act.
13. From perusal of the impugned award, it is found that the Claims Tribunal has committed an error in awarding compensation towards loss of dependency, loss of consortium and other conventional heads.
14. Before the learned Claims Tribunal, claimants have pleaded income of deceased to Rs.200/- - Rs.300/- per day by working as Labourer, but has not produced any evidence with respect to salary or income of deceased. The claimants have failed to prove income as pleaded in their claim application, therefore, in the facts and circumstances of case, income of deceased is to be assessed



on notional basis by the learned Claims Tribunal and reckoned the income of the deceased as Rs.48,000/- per annum.

15. The legal position now stands settled by virtue of the law declared by the Apex Court in ***Sarla Verma v. Delhi Transportation Corporation, (2009) 6 SCC 121***. It stands affirmed by the Constitution Bench of the Apex Court in ***National Insurance Company Limited v. Pranay Sethi and others, AIR 2017 SC 5157***. Even though, it has been observed by the Claims Tribunal that the deceased was 35 years of age, there is no conclusive proof with regard to the age. Based on the available materials, the Court reckon the same as 35 years as contended by the claimants. In the instant case, the learned Claims Tribunal has rightly reckoned the income of deceased as Rs.4,000/- per month, i.e. Rs.48,000/- per annum. Going by the rulings rendered by the Apex Court as cited above, in the case of persons of less than 40 years of age without fixed income, 40% of the income has to be added for fixing the future prospects, which comes to Rs.67,200/- per annum. After deducting 1/5th towards personal and living expenses, annual income of deceased comes to Rs.53,760/-. After applying the multiplier of 16, the loss of income of deceased comes to Rs.8,60,160/-.
16. The scope of 'consortium' has been subsequently explained by the Apex Court in ***Magma General Insurance Company Limited v. Nanu Ram Alias Chuhru Ram & Others, (2018) 18 SCC 130***. It



can be of three types; **Parental consortium** (payable to children because of the death of parents); **Spousal consortium** (payable to the surviving spouse because of the death of the partner) and **Filial consortium** (payable to the parents because of the death of children). This being the position, the claimants are entitled to get a sum of Rs.3,20,000/- towards loss of consortium. Further, a sum of Rs.15,000/- is payable towards funeral expenses in view of the law declared in **Pranay Sethi** (supra). As per the decision rendered in **Pranay Sethi** (supra), the appellants/claimants are also entitled to get a sum of Rs.15,000/- towards loss of estate. Further, 10% enhancement in every three years is also required to be given in respect of loss of estate, funeral expenses and loss of consortium as per the law laid down by the Hon’ble Supreme Court in the matter of **United India Insurance Company Limited v. Satinder Kaur @ Satwinder Kaur and Others reported in AIR 2020 SC 3076**.

17. On the basis of above recalculation, the claimants are entitled for compensation in the following manner:-

Sl. No.	Head	Calculation	Awarded amount
1.	Income of deceased @ Rs.4,000/- per month	Rs.48,000/- per annum	
2.	40% of (1) above to be added as future prospects	48,000 + 19,200 = Rs.67,200/-	
3.	1/5th of (2) deducted as personal	67,200 / 5 = Rs.13,440/-	



	expenses of the deceased	= Rs.53,760/-	
4.	Compensation after multiplier of 16 applied	53,760 x 16	Rs.8,60,160/-
5.	Towards loss of estate	15,000 + 3,000 with increase of 10% in every three years	Rs.18,000/-
6.	Towards loss of consortium to all the eight claimants @ Rs. 40,000/-	40,000 + 8,000 = 48,000/- with increase of 10% in every three years	Rs.3,84,000/-
7.	Funeral Expenses	15,000 + 3,000 with increase of 10% in every three years	Rs.18,000/-
		Total Compensation Awarded	Rs.12,80,160/-

18. In the said circumstance, the total compensation comes to **Rs.12,80,160/-**. After deducting Rs.8,30,400/- as awarded by the Claims Tribunal, the enhancement would be **Rs.4,49,760/-**.
19. As such, the claimants shall be entitled to Rs.4,49,760/- in addition to what is already awarded by the Claims Tribunal. The enhanced amount will carry interest @ 9% per annum from the date of enhancement of the award till its realization. The other conditions imposed by the learned Claims Tribunal shall remain intact.
20. Since, it is an admitted fact that on the date of accident, offending vehicle was duly insured with the Insurance Company, hence, the Insurance Company is directed to pay the enhanced amount of



compensation to the claimants as modified by this Court within a period of 60 days from the date of production of certified copy of this judgment.

21. Accordingly, while upholding the liability of the Insurance Company to satisfy the award, the appeal filed by the Insurance Company stands dismissed, subject to the aforesaid modification with regard to enhancement of compensation.
22. Since none has appeared on behalf of the claimants, in spite of due notice, it is directed that the enhancement of compensation be intimated to the claimants at their given address through the concerned District Legal Services Authority, Raipur, Chhattisgarh ('DLSA'). The Registry is directed to forward a copy of this judgment to the claimants as well as to the concerned DLSA, Raipur, Chhattisgarh with a further direction to ensure that the claimants may receive the enhanced compensation upon filing suitable proof before the concerned learned Claims Tribunal.

Sd/-

**(Amitendra Kishore Prasad)
Judge**

Yogesh

**Head Note**

Motor Vehicles Act, 1988 — Benevolent legislation — Just compensation — Non-filing of cross-objection or cross-appeal by the claimant will not preclude the Court from awarding just and reasonable compensation. The duty of the Court is to ensure award of just compensation irrespective of procedural technicalities.