(2025) 11 CHH CK 1807

In the Chhattisgarh High Court

Case No : MAC No. 105 Of 2024

Vijay Kumar Sahu APPELLANT

Vs

Dharmendra Singh Meravi RESPONDENT

Date of Decision : 20-11-2025

Acts Referred:

Motor Vehicles Act, 1988 — Section 166

Citation : (2025) 11 CHH CK 1807

Hon'ble Judges : Rakesh Mohan Pandey, J

Bench : Single Bench

Advocate : Amit Sahu

Final Decision : Allowed

Judgement

Rakesh Mohan Pandey, J

1. The appellants/claimants have filed this appeal for enhancement of compensation against award passed by the learned 1st Additional Motor Accident Claims Tribunal, Bemetara in Claim Case No. 96/2023 dated 10.11.2023, whereby the learned Tribunal has passed an award to the tune of Rs. 2,85,000/- with interest at the rate of 6% per anum on account of death of Yamini Sahu aged about 6 years.

2. The facts in brief are that on 09.04.2023 the grand father of the deceased/ Nand Kumar Sahu was driving TVS XL Super bearing registration No. CG 25 5721 and the deceased was a pillion rider, when they reached near Village Khalhe Devri, the driver of offending vehicle Bolero Pick Up bearing registration No. MP 51 G 1075 by driving it rashly and negligently dashed the bike of Nand Kumar Sahu, consequently, Yamini Sahu and her grand father sustained injuries and succumbed to death. The claimants who are parents of the deceased/Yamini Sahu filed claim case under Section 166 of Motor Vehicle Act inter alia on the ground that at the time of accident age of the deceased was 6 years and they claimed sum of Rs. 35,00,000/-.

3. The driver, owner as well as the Insurance Company filed reply to the claim application. The driver and owner took specific plea that on the date of accident, the driver of the offending vehicle had valid and effective driving licence and vehicle was insured with the Insurance Company. The Insurance Company took plea that the claimants have exaggerated the amount of compensation and the offending vehicle was being driven in breach of the Insurance policy. The learned Tribunal framed issues; parties led evidence, and thereafter, award was passed.

4. Mr. Amit Sahu, Advocate would argue that the learned Tribunal erred in law while holding the grandfather of the deceased guilty of 50% contributory negligence in the accident in absence of any direct or corroborating evidence. He would further submit that the deceased was a pillion rider; therefore, the principle of contributory negligence would not attract. He would also submit that the Insurance company and driver & owner of the offending vehicle could not lead evidence to prove the fact that there was contributory negligence on the part of the grandfather of the deceased, and therefore, the finding recorded by the learned Tribunal with regard to contributory negligence is erroneous. Mr. Sahu would contend that the learned Tribunal has granted a lump-sum compensation of Rs. 5,00,000/- and failed to assess income of the deceased. It is also argued that the learned Tribunal has not awarded compensation for loss of consortium to one of the claimants. He has placed reliance on the judgment passed by the Hon’ble Supreme Court in the matter of Hitesh Nagjibhai Patel versus Bababhai Nagjibhai Rabari & Anr. reported in 2025 LiveLaw (SC) 871 and in the matter of Thangavel and others Vs. Managing Director, Tamil Nadu State Transport Corporation Limited, reported in 2025 SCC Online SC 1649. He would pray to enhance the compensation.

5. There is no representation on behalf of the Insurance Company, though liability has been fastened with it.

6. I have heard Mr. Sahu at length and perused the record.

7. The learned Tribunal has framed issue No. 3(c) with regard to contributory negligence. The learned Tribunal held that the licence of the grandfather i.e. Nand Kumar Sahu was not produced by the claimants, thus, he did not have valid and effective driving licence on the date of accident and on this ground alone, the learned Tribunal decided the issue of contributory negligence against the claimants and held that claimants would be entitled to get 50% of the total compensation.

8. Perusal of the record would show that on 09.04.2023 at about 11:00 am Nand Kumar Sahu along with Yamini Sahu were going towards Khalhe Devri, and at the same time, the driver of the offending vehicle Bolero Pick Up by driving it rashly and negligently dashed the bike of the deceased from backside. This fact is depicted in the FIR & Postmortem Report. Vijay Kumar Sahu PW/1 in his evidence deposed that the bike of the deceased Nand Kumar Sahu and Yamini Sahu was dashed by the offending vehicle

from backside, and in cross-examination, this witness remained firm. The Insurance Company and driver & owner failed to examine any witness to

establish plea of contributory negligence.

9. The Hon'ble Supreme Court in the matter of Meera Devi and Another Vs. Himachal Pradesh Road Transport Corporation and Others, 2014 (4) SCC 511 while dealing with the issue of contributory negligence held that to prove the contributory negligence there must be cogent evidence, relevant para 10 is reproduced herein-below :-

"10. To prove the contributory negligence, there must be cogent evidence. In the instant case, there is no specific evidence to prove that the incident has taken place due to rash and negligent driving of the deceased scooterist. In absence of any cogent evidence to prove the plea of contributory negligence, the said doctrine of the common law cannot be applied in the present case. We are, thus of the view that the reasoning given by the High Court has no basis and the compensation awarded by the tribunal was just and reasonable in the facts and circumstances of the case."

10. In the present case, deceased Yamini Sahu was a pillion rider. The Insurance Company as well as driver & owner of the vehicle could not lead evidence to prove contributory negligence; therefore, the finding recorded by the learned Tribunal in this regard is not sustainable in the eyes of law and same is hereby set-aside.

11. The learned Tribunal has awarded a fix sum of Rs. 5,00,000/- to the claimants. The Hon'ble Supreme Court in the matter of Hitesh Nagjibhai Patel (supra) a minor child who suffers death or permanent disability in a motor vehicle accident, cannot be placed in the same category as a non-earning individual for the purposes of assessing the amount of compensation because the child was not engaged in gainful employment. It is further held that in such a case, the computation of compensation under the head of loss of income ought to be made by adopting, at the very least, the minimum wages payable to a skilled workman as notified for the relevant period in the respective State where the cause of action arises, relevant para 9 is reproduced herein-below :-

"9. On the aspect of monthly income of the minor appellant, we are inclined to interfere with the judgment and order of the Courts below. In the present case, it is evident that the Courts below have failed to take into account the monthly income of the appellant while determining the quantum of compnesation. It is now a well-enterenched and consistently reiterated principle of law that a minor child who suffers death or permanent disability in a motor vehicle accident, cannot be placed in the same category as a non-earning individual for the purposes of assessing the amount of compensation because the child was not engaged in gainful employment at the time of the accident. In such a case, the computation of compensation under the head of loss of income ought to be made by adopting, at the very lease, the minimum wages payable to a skilled workman as notified for the relevant period in the respective State where the cause of action arises. The said observation was rendered by this Court, in Kajal v. Jagdish Chand and Ors.(2020) 4 SCC 413, and Baby Sakshi Greola v. Manzoor Ahmad Simon and Anr., 2024 SCC OnLine SC 3692."

12. In the matter of Thangavel (supra), the Hon'ble Supreme Court considered the monthly income of the deceased Rs.5,000/- without any deduction and applied multiplier of 15 looking to the age of the mother of the deceased and further awarded compensation on conventional heads.

13. In the present case, age of the appellants at the time of filing of claim case was 26 years and 24 years, it would be appropriate to consider the age of the father to apply appropriate multiplier. Applying the law laid down by the Hon'ble Supreme Court in the matter of Thangavel (supra), the monthly income of the deceased is assessed to the tune of Rs. 5,000/- without any deduction for personal expenses; looking to the age of the father of the deceased appropriate multiplier would be 17. The learned Tribunal has not awarded compensation for loss of consortium to one of the claimants. The compensation for loss of estate and funeral expenses has already been awarded. Thus, the compensation requires recomputation and same is being revisited herein-below:-

Sr.

Heads

Compensation

Compensation

No.

awarded by

awarded by this

Tribunal

Court

1.

Income

Total amount

Rs. 5,000 x12 = Rs.

Rs. 5,00,000/-

60,000/-

2.

Multiplier

(x)

17

=

Rs.

10,20,000/-

3.

Loss of Estate

Rs. 15,000/-

Rs. 15,000/-

4.

Funeral expenses

Rs. 15,000/-

Rs. 15,000/-

5.

Loss of consortium

Rs. 40,000/-

Rs. 40,000/-

(for appellant No. 1)

6.

Loss of consortium

Rs. 40,000/-

(for appellant No. 2)

TOTAL

Rs. 5,70,000/- ÷ 2

Rs. 11,30,000/-

(contributory

negligence) =

Rs. 2,85,000/-

14. For the forgoing reasons, the appeal is allowed in part. The amount of compensation of Rs. 2,85,000/- awarded by the tribunal is enhanced to Rs.

11,30,000/-. Hence, after deducting the amount of Rs. 2,85,000/-, the appellants/claimants are held entitled for an additional amount of Rs. 8,45,000/- with interest at the rate of 6% and the claimants shall be entitled to get the entire amount of compensation assessed by this Court i.e. Rs. 11,30,000/- without any deduction. The Insurance Company is directed to deposit the amount of compensation as enhanced by this Court within a period of 60 days from the date of receipt of copy of this order. Rest of the conditions of impugned award shall remain intact.

15. Accordingly, the instant appeal is hereby partly allowed.