



**IN THE HIGH COURT OF ORISSA AT CUTTACK**

**MACA NO.805 of 2025**

(In the matter of application under Section-173 of M.V. Act, 1988).

***The Divisional  
Manager, Oriental  
Insurance Co. Ltd.,  
Sundargarh*** ... ***Appellant***

*-versus-*

***Goura Chandra Naik &  
others*** ... ***Respondents***

***For Appellant*** : ***Mr. S. Pradhan, Advocate***

***For Respondents*** : ***Mr. P.K. Mishra,  
Advocate(R-1 to 3)  
None (R-4)***

**CORAM:**

**JUSTICE G. SATAPATHY**

**DATE OF HEARING & JUDGMENT(ORAL): 06.03.2026**

**G. Satapathy, J.**

**1.** This is an appeal by the insurance company (hereinafter referred to as "the insurer") against the impugned judgment dated 21.01.2025 passed by learned 4<sup>th</sup> Motor Accident Claims Tribunal, Keonjhar (hereinafter referred to as "the learned tribunal") in MAC case No.36/186 of 2017-16 directing the insurer to pay a sum of Rs. 6,35,000/- together with simple



interest @ 6% per annum w.e.f 20.09.2016 till its actual realization to the claimants-R-1 to 3 for the death of the deceased Tirthabasi Naik in a motor vehicular accident.

**2.** Shorn of unnecessary details, the present appeal arises out of the claim preferred by R-1 to 3 for the accident that took place on 15.06.2016 at about 1PM, when deceased minor son of R-1 & 2 was dashed by an Auto Rickshaw bearing Registration No.OD-09-E-2388 (hereinafter referred to as "the offending vehicle") at Dhurpada, Keonjhar resulting in his death. On this accident, Keonjhar Town PS Case No. 206 of 2016 was registered which culminated in submission of charge sheet. The deceased was a minor boy and was reading in Class-IX. Accordingly, the Respondents approached the tribunal in an application U/S. 166 of the Motor Vehicles Act, 1988 (In short "the Act") for grant of compensation for the death of the deceased by impleading the owner and insurer of the offending vehicle.



**3.** In response to the notice of the claim (MAC case No.36/186 of 2017-16), the owner of the offending vehicle preferred not to contest the claim and accordingly, was set *exparte*, but the insurer who was OP No.2 in the proceeding before the tribunal contested the claim by filing written statement denying all the allegations leveled against it and disowning its liability.

**3.1.** On the *interse* pleadings between the parties, the learned tribunal stuck two issues and allowed the parties to lead evidence and accordingly, the claimants examined 2 witnesses vide PW1 and PW2 and proved 13 documents under Ext.1 to Ext. 13 as against no evidence whatsoever by the insurer.

**4.** After appreciating the evidence on record upon hearing the parties, the learned tribunal passed the impugned judgment directing the insurer to pay compensation amount indicated *supra* giving right of recovery from the owner of the offending vehicle. Being aggrieved with the impugned judgment, the insurer has preferred this appeal.



**5.** Heard, Mr. Smarajit Pradhan, learned counsel for the appellant and Mr. Pradeep Kumar Mishra, learned counsel for R-1 to R-3 in the appeal and perused the record, but none appears for R-4 despite valid service of notice.

**6.** After having considered the rival submission upon perusal of record, there is no dispute about the accident occurring due to rash and negligent driving of the driver of the offending vehicle, but the dispute that is carried in this appeal is as to the quantum of compensation awarded to the claimants, however, it is an undisputed fact that the deceased was a minor boy and he was aged about 15 years at the time of his death and the learned tribunal, however, computed the compensation towards loss of dependency of the claimants in paragraph-22 of the impugned judgment, which reads as under:-

*"22. Therefore, in the present case as it reveals from the evidence of the PW.1 that the child was a school going student and was 15 years placing reliance on the decisions of the Hon'ble Courts the notional income is taken as Rs.30,000/- per annum inclusive of future prospect. As the*



deceased was 15 years old applying the multiplier "18" in view of the observation in **Sarla Verma & Ors vs. Delhi Transport Corporation & Anr. reported in 2009 ACJ 1298 (SC)**, the loss of dependency of income comes to Rs.30,000 X 18 = Rs.5,40,000/-. Besides this, the Petitioners are entitled to Rs.15,000/- towards funeral expenses and filial consortium of both parents as Rs.80,000/- (Rs. 40,000/- each). Thus the total compensation is Rs.6,35,000/-."

7. On scrutiny of the aforesaid computation of compensation, this Court hardly finds any error apparent on the finding of the learned tribunal, but the learned tribunal has in fact granted Rs. 95,000/- towards general damages by awarding Rs. 40,000/- each to the parents towards filial consortium, however, this Court being alived with the principle settled by the Apex Court in **Shri Ram General Insurance Co. Ltd. Vrs. Bhagat Singh Rawat and others** in **Civil Appeal Nos.2410-2412/2023 (SLP[C] Nos. 11669-11671/2020)** which in fact relied upon the decision of the Apex Court in **National Insurance Company Limited Vrs. Pranay Sethi and others; (2018) 69 OCR (SC) 1** considers it proper to award a consolidated sum of Rs. 70,000/- towards general



damages under conventional heads of loss of estate, loss consortium and funeral expenses. Since the accident in this case has taken place in the year 2016 and thereby, 10 years have elapsed, but there should be an increase of 10% on this amount for each 3 years in terms of the law laid down by the Apex Court in ***Pranay Sethi(supra)***. Accordingly, the general damages under these heads is quantified at Rs. 91,000/-. Hence, the net compensation amount would come around Rs. 5,40,000/- + Rs. 91,000/- = Rs. 6,31,000/-. Hence, the appellant-insurer is liable to pay the modified compensation of Rs. 6,31,000/- together with simple interest 6% per annum w.e.f 20.09.2016 till its realization to the claimants/respondents, however, the right of recovery as granted to the insurer by the learned tribunal having not been challenged in this appeal remains unaffected and is hereby confirmed and the appellant is accordingly directed to pay the compensation amount to the claimants/respondents first and recover the same from the owner of the offending vehicle in accordance with law.



**8.** In the result, the appeal is allowed in part on contest against R-1 to R-3, but *exparte* against R-4, however, without any costs. Consequently, the impugned judgment is modified to the extent indicated above and the appellant is entitled to refund back the statutory deposit together with accrued interest thereon on production of proof of deposit of the modified compensation amount within eight weeks hence and in case deposit of the modified compensation amount by the appellant, the same shall be disbursed to the claimants proportionately in terms of the award passed by the learned tribunal.

**(G. Satapathy)**  
**Judge**

*Orissa High Court, Cuttack,  
Dated the 6<sup>th</sup> day of March, 2026/Priyajit*