



2026:CGHC:21368

AFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MAC No. 131 of 2020

1 - Sariskila Patel W/o Arun Patel, Aged About 40 Years R/o Village - Rampur, Tahsil - Pratappur, District - Surajpur Chhattisgarh., District : Surajpur, Chhattisgarh

... Appellant

versus

1 - Arun Patel S/o Saryu Patel, Aged About 45 Years R/o Village - Rampur, Tahsil - Pratappur, District - Surajpur Chhattisgarh. (Owner), District : Surajpur, Chhattisgarh

2 - Ifco Tokyo General National Insurance Company Limited, Branch Office - Ring Road No. 1, In Front Of Udyog Bhawan, M. M. Silver Plaza, Second Floor Shop No. 205, Raipur Chhattisgarh., District : Raipur, Chhattisgarh

... Respondent(s)

For Appellant	:	Mr. Krishna Kant Prajapati on behalf of Mr. D.N. Prajapati, Advocates
For Respondent	:	Ms. Shrishti Attal on behalf of Mr. Vaibhav No. 2 Shukla, Advocates

SB - Hon'ble Shri Justice Sanjay K. Agrawal**Judgment on Board****07.05.2026**

- 1.** This appeal under Section 173 of the Motor Vehicle Act, 1988 (hereinafter, "the Act of 1988") has been preferred by the appellant/claimant seeking enhancement of compensation, challenging the impugned award dated 24/12/2019 (Annexure A/1) passed by learned Additional Motor Accident Claims Tribunal, Pratappur, District Surajpur in Claim Case No. 02/2019 whereby compensation of Rs. 50,000/- has been awarded in favour of the appellant/claimant for the death of her son Ashish Patel.
- 2.** Deceased Ashish Patel was the son of owner of the vehicle i.e. respondent No. 1 and on the date of the accident, he himself was driving the vehicle and no other vehicle was involved and the accident happened on account of some mechanical failure in his own vehicle.
- 3.** Learned counsel for the appellant/claimant would submit that the compensation awarded by the Claims Tribunal is grossly inadequate, therefore, it may suitably be enhanced.

4. Learned counsel for respondent No. 2 would support the impugned award and submit that the instant appeal is liable to be dismissed.
5. I have heard learned counsel for the parties, considered their rival submissions made herein-above and went through the record with utmost circumspection.
6. The Supreme Court, in the matter of **National Insurance Company Limited v. Ashalata Bhowmick and Others**¹, has considered the issue of death of owner-cum-driver of motor vehicle, caused due to his own negligence and it has been in paragraphs 7 and 9 as under :-

“7. We have carefully considered the submissions of the learned counsel made at the Bar and perused the materials placed on record. It is an admitted position that the deceased was the owner-cum-driver of the vehicle in question. The accident had occurred due to the rash and negligent driving of the vehicle by the deceased. No other vehicle was involved in the accident. The deceased himself was responsible for the accident. The deceased being the owner of the offending vehicle was not a third party within the meaning of the Act. The deceased was the victim of his own action of rash and negligent driving. A claimant, in our view, cannot maintain a claim on the basis of his own fault or negligence and argue that even when he himself may have caused the accident on account of his own rash and negligent driving, he can nevertheless make the insurance company to pay for the same. Therefore, the respondents being the legal representatives of the deceased could not have

1 (2018) 9 SCC 801

maintained the claim petition filed under Section 166 of the Motor Vehicles Act.

9. Therefore, the High Court was not justified in directing the appellant insurer to pay the compensation determined by the Tribunal. Since the indemnification extended to personal accident of the deceased is limited to Rs. 2,00,000 under the contract of insurance, the respondents are entitled for the said amount towards compensation. Hence, the appellant is directed to deposit the said sum of Rs. 2,00,000 with interest @ 9 per cent p.a. from the date of the claim petition till the date of deposit with the Tribunal within a period of four weeks from today.”

7. In the instant case, though the claim petition filed under Section 166 of the Act of 1988 would not be maintainable, however, a careful perusal of the insurance policy (Ex. D/1) would show that a premium of Rs. 100/- was paid towards personal accident cover for the owner and driver and under the contractual liability, the Insurance Company would be liable to pay compensation of Rs. 1,00,000/-, out of which, Rs. 50,000/- has already been awarded by the Claims Tribunal. Hence, the appellant/claimant is held entitled for an additional compensation of **Rs. 50,000/-**. Respondent No. 2/Insurance Company is directed to deposit the amount of compensation as enhanced by this Court within a period of 30 days 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 i.e.

03/01/2019 till its realization. Rest of the conditions of the impugned award shall remain intact.

8. Accordingly, the impugned award is modified and the instant appeal is allowed to the extent indicated herein-above.

Sd/-
(Sanjay K. Agrawal)
Judge

Harneet