**IN THE HIGH COURT OF JHARKHAND AT RANCHI**
**M.A. No. 223 of 2014**

1. Oriental Insurance Co. Ltd. Ghatkopar, D.O.-Shreepal Complex II, Floor, MG Road, Ghatkopar, P.O. & P.S.- West Mumbai, Maharashtra-400086.
2. Oriental Insurance Co. Ltd., Head Office, A-25/27 Asaf Ali Road, P.O. & P.S.-New Delhi.

…. …. **Appellants**

Versus

1. Kiran Kapoor, wife of late Shiv Shankar Kapoor, resident of Mohalla-Abadganj, Near Bhhodan Office, Daltongunj, P.O.& P.S.- Daltongunj, District- Palamau.
2. M/s Deekay Enterprises Prop. & Owner D.K. Nayak, Gate No. 18, AIP Kumbheri, P.O. & P.S.- Tal Mulshi, District- Pune, Maharashtra.
3. Dattu Dnyandev Palve, residing at Post-Gomalwada, P.O.& P.S.- Tal Shirur, Kasari, District- Beed, Maharasthra. …. …. **Respondents**

**With**

**C.O. No. 11 of 2020**

Kiran Kapoor (aged about 60 years), wife of late Shiv Shankar Kapoor, resident of Mohalla Abadganj, Near Bhhodan office, Daltonganj, P.O. & P.S.- Daltonganj, District- Palamau.

**…….Cross Objector/ Applicant**

Versus

1. M/s Deekay Enterprises, Prop. and owner D.K. Nayak., Gate No. 18, AIP Kumheri, P.O. & P.S.- Tal Mulshi, P.S.-Pune Muffasil, Post-Mulshi, District-Pune (Maharastra),PIN-412115.
2. Dettu Dyandev Palve, residing at Comaiwada, Tal Shirur Kasari, P.O. & P.S.- Shirur, District- Beed (Maharastra) PIN-413249.
3. Oriental Insurance Company Limited, Ghatkopar, D.O.- Shreepal Complex, IInd Floor, M.G. Road, Ghatkopar, P.O. & P.S.- Ghatkopar, West Mumbai (Maharastra), PIN-400086.
4. Oriental Insurance Company Limited, Head Office, A-25/27, Asaf Ali Road, P.S.- Kotwali, Post- New Delhi-110002.

…. … **Respondents**

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**CORAM : HON'BLE THE CHIEF JUSTICE**

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**M.A. No.223 of 2014**

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| For the Appellants | : | Mr. Alok Lal, Advocate |
| For the Respondents | : | Mr. Arvind Kumar Lall, Advocate<br>Ms D. Arati Kumari, Advocate |

**C.O. No.11 of 2020**

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| For the Cross-Objector | : | Mr. Arvind Kumar Lall, Advocate |
| For the Resp.-Ins.Company | : | Mr. Alok Lal, Advocate<br>Ms D. Arati Kumari, Advocate |

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**Reserved On : 24.08.2026** **Pronounced On: 31.08.2026**

**Per M.S. Sonak, CJ:-**

1. Heard the learned counsel for the parties.

2. I.A. No. 3084 of 2014 has been filed seeking condonation of delay of 169 days in filing the instant appeal. Since sufficient cause has been shown, the delay is condoned. The IA is accordingly disposed of.

3. This appeal has been preferred by the Oriental Insurance Company Ltd. against the Judgment and Award dated 24.09.2013 passed by the Claim Tribunal, Palamau at Daltonganj, in M.V. Claim Case No. 24 of 2011. By the said award, the Ld. Tribunal directed the appellant-insurer to pay a net sum of Rs. 9,38,000/-, after adjustment of interim compensation of Rs.50,000/-, with interest at the rate of 6% per annum from the date of institution of the claim.

4. Additionally, the claimant has preferred Cross Objection No. 11 of 2020, seeking enhancement of the compensation amount.

5. The appellant-insurer contends that the driver of the offending water tanker was not negligent, as a final report was submitted in the criminal case, and, consequently, no liability can be fastened upon the appellant. In the alternative, it is contended that the Tribunal applied an incorrect test in assessing the compensation, particularly by relying on an income-tax return filed after the deceased's death.

6. Per contra, the claimant, by the cross-objection, submits that the compensation is meagre and requires enhancement.

7. Based on the rival submissions and the material available on record, the following points arise for determination:

> *I. Whether the Tribunal erred in holding that the accident was caused by the rash and negligent act of the driver of water tanker bearing registration No. MH-34A-2771?*

II. *Whether the Tribunal applied an incorrect test and procedure in assessing the compensation and, consequently, whether the compensation awarded is not just and reasonable?*

8. Insofar as the first point of determination is concerned, it is an admitted fact that the accident occurred on 26.06.2010 at about 10.30 a.m. near North Point Check Post, Sahara City, Tal Mulshi, District Pune. The case of the claimant is that a water tanker bearing registration No. MH-34A-2771 had been parked on an up-slope in a risky manner and thereafter rolled over the deceased, who was standing near the check-post cabin, resulting in his death on account of the grievous injuries sustained by him in the said occurrence.

9. The appellant's contention that the driver was not negligent merely because a final report had been submitted in the criminal case cannot be accepted. In this regard, reliance is placed upon the judgment of the Hon'ble Supreme Court in **Reena v. The Managing Director, Karnataka State Road Transport Corporation,** reported in **2026 INSC 889.**

10. In the said decision, the Hon'ble Supreme Court held that *material collected during a criminal investigation, including the police report, may have evidentiary value but cannot, by itself, be treated as conclusive proof of negligence in a claim proceeding.* The Hon'ble Court further observed that the Tribunal is required to independently examine the evidence available to it and determine the issue on the touchstone of preponderance of probabilities. The same principle applies where the result of the criminal investigation is a final form or final report. Accordingly, it follows that the mere submission of such a report cannot, by itself, establish that the driver was not negligent. Rather, the said question has to be determined on the basis of the entire evidence available on record.

11. In the present case, A.W. 3, namely Arun Singh, and A.W. 4, namely Md. Safique Hussain, are ocular witnesses to the occurrence. They have deposed that the tanker, which had been parked on the slope, rolled over the deceased due to negligent parking. Additionally, it is pertinent to note that A.W. 4 was also the informant in the crime detail report (Ext.1). Their evidence has remained intact on cross-examination, and nothing substantial has been brought on record to impeach their credibility. Their testimony is further corroborated by the post-mortem report (Ext.3), the death certificate (Ext.8) and the M.V.I. report (Ext.5).

12. Thus, the evidence on record, when considered as a whole, establishes that the deceased died as a result of the tanker driver's negligence. The finding recorded by the learned Tribunal on the question of negligence is based on the ocular and documentary evidence available on record and does not warrant interference.

13. Point No. (i) is accordingly answered against the appellant.

14. Regarding compensation, the Tribunal assessed the deceased's annual income at Rs. 1,52,000/- on the basis of the income-tax acknowledgement receipt (Ext. 7) and the TDS certificate (Ext. 6). As the deceased was a bachelor, one-half of the income was deducted for his personal and living expenses.

15. The Tribunal thereafter applied a multiplier of 13 with reference to the deceased's age. Such application of the multiplier is contrary to the settled principles governing assessment of compensation. In the case of **Sarla Verma v. DTC, (2009) 6 SCC 121,** the Hon’ble Supreme Court has laid down the appropriate multiplier with reference to the age of the deceased. The deceased

was 28 years of age, as proven from the matriculation certificate (Ext. 9) and the post-mortem report (Ext. 3). The correct multiplier is, therefore, 17.

16. The Insurance Company next contends that the income-tax return relied upon by the learned Tribunal was filed after the death of the deceased and, therefore, ought not to have been relied upon.

17. On this contention of the Insurance Company, reliance can be placed on the recent dictum of the Hon’ble SC in the case of **Rashmirekha Tripathy v. The Branch Manager (Legal Claims), Sriram General Insurance Company Limited,** reported in **2026 INSC 661.**

18. The Hon’ble Supreme Court in the said case has examined how income disclosed in income-tax returns is to be treated when determining compensation under the Motor Vehicles Act. The Hon’ble Court has recognised that an income-tax return is an important piece of evidence but has also held that the date on which the return was filed is a relevant circumstance. Where an income-tax return is filed after the death or injury, the possibility of an inflated income being shown cannot be completely ignored. In such a situation, the surrounding circumstances of the business and other relevant material assume significance. At the same time, the mere fact that the return was filed after the death does not render it liable to be discarded if the income reflected therein is sufficiently supported by the other material available on record.

19. It is true that the income-tax return relied upon by the claimant was filed after the death of the deceased, and that circumstance cannot be brushed aside while assessing the evidentiary value of the return. At the same time, the income reflected in the said return cannot be considered in isolation.

20. The Hon’ble Supreme Court in the case of **Rashmirekha Tripathy (Supra)** has observed that, in the case of self-employed persons or persons carrying on their own business, the income disclosed in the ITRs of up to the preceding three years may ordinarily be taken as a reference point, having regard to the nature of the business, its growth pattern and other surrounding circumstances.

21. However, the Hon'ble SC has itself recognised that such a multi-year exercise is contingent on the availability of returns, and that where only one or two returns exist, the surrounding circumstances of the business, other materials on record, etc.

22. In the present case, the TDS certificate (Ext. 6) relates to the period from 01.04.2009 to 31.03.2010, that is, the financial year immediately preceding the accident, and records deduction of tax amounting to Rs. 4,754/-. The income-tax acknowledgement (Ext. 7) records total income of Rs. 1,52,300/-. Thus, although the return was filed after the death, the TDS certificate furnishes contemporaneous material from the period preceding the accident showing that the deceased had taxable income. The question, therefore, is not merely when the return was filed, but whether the income disclosed therein finds support from independent material and the surrounding circumstances of the deceased’s occupation.

23. On this aspect, the oral evidence assumes significance. A.W.3 has deposed that 10 to 15 persons were working under the supervision of the deceased, while A.W. 3 and A.W. 4 have stated that the deceased was earning between Rs. 13,000/- and Rs. 14,000/- per month. Their evidence has remained unshaken in cross-examination.

24. The income disclosed in the return must also be considered in the context of the nature and scale of the deceased’s occupation. A.W. 3 has deposed that 10 to 15 persons were working under the deceased’s supervision, and A.W. 3 and A.W. 4 have stated that he was earning between Rs. 13,000/- and Rs. 14,000/- per month. The deceased was, therefore, not merely an individual labourer but was carrying on work as a petty contractor, with a number of persons working under his supervision.

25. Viewed in that context, the annual income of Rs. 1,52,300/- disclosed in the income-tax acknowledgement, which was adopted by the Tribunal at Rs.1,52,000/-, cannot be said to be inherently improbable or exaggerated. Rather, the figure reflected in the income-tax acknowledgement is broadly consistent with the oral evidence regarding his monthly earnings.

26. It is also of significance that the appellant has not led any evidence to discredit either the income-tax documents or the oral evidence of the witnesses. No official from the income-tax department has been examined, nor has any material been produced to suggest that the return was fabricated or that the income disclosed therein was artificially inflated.

27. The mere fact that the return was filed after the death may invite scrutiny, but cannot, in the absence of any contrary material, furnish a sufficient basis for rejecting the income disclosed therein altogether. Having regard to the TDS certificate relating to the financial year immediately preceding the accident, the oral evidence regarding the deceased’s earnings and the absence of any evidence casting doubt upon the genuineness of the documents or the income disclosed therein, this Court finds no reason to discard the annual income of Rs. 1,52,000/- assessed by the learned Tribunal.

28. The deceased was 28 years of age and was self-employed as a contractor. Having regard to his age and the nature of his occupation, an addition of 40% towards future prospects is warranted in terms of **National Insurance Co. Ltd. v. Pranay Sethi, (2017) 16 SCC 680.** The annual income for the purpose of computation thus comes to Rs. 2,12,800/-.

29. Since the deceased was a bachelor, deduction of one-half towards personal and living expenses is appropriate. The loss of dependency is accordingly calculated as follows:

**Rs. 2,12,800/- × 1/2 = Rs. 1,06,400/-**
**Rs. 1,06,400/- × 17 = Rs. 18,08,800/-**

30. The claimant is, therefore, entitled to Rs. 18,08,800/- towards loss of dependency.

31. In addition to the aforesaid amount, compensation under the conventional heads is required to be awarded in accordance with the principles laid down in **Pranay Sethi (supra)** and **Magma General Insurance Co. Ltd. v. Nanu Ram @ Chuhru Ram, (2018) 18 SCC 130**. The claimant is accordingly entitled to Rs. 40,000/- towards filial consortium, Rs. 15,000/- towards funeral expenses and Rs. 15,000/- towards loss of estate.

32. The total compensation payable to the claimant thus comes to Rs. 18,78,800/-. The same is rounded off to Rs. 18,80,000/-. The interim compensation of Rs. 50,000/- and any statutory amount already paid or deposited shall stand adjusted against the amount so determined.

33. Point No. (ii) is accordingly answered by holding that the compensation awarded by the learned Tribunal is not just and reasonable and requires enhancement.

34. The appeal is dismissed. The C.O. No. 11 of 2020 is allowed.

35. The appellant-Insurance Company is directed to deposit the enhanced amount before the learned Tribunal within eight weeks from today, after due intimation to the learned counsel for the claimant.

36. Upon such deposit, the learned Tribunal shall permit the claimant to withdraw the amount by transfer to his bank account through regular banking channels.

37. The learned counsel for the claimant shall furnish the necessary identity and bank particulars before the learned Tribunal for facilitating such transfer.

38. There shall be no order as to costs. Pending interlocutory applications, if any, stand disposed of.

**(M.S. Sonak, C.J.)**

August 31, 2026
AFR
Ranjeet/R.Kr./
Uploaded on 31.08.2026