IN THE HIGH COURT OF JHARKHAND AT RANCHI

M.A. No. 248 of 2017

New India Assurance Co. Ltd, Atma Ram Bhawan, 2nd Floor, Radheshyam Lane Main Road, P.S. Kotwali, P.O. & District – Ranchi. ... Appellant

Versus

1. Dewal Yadav
2. Nanhu Yadav
3. Kailu Yadav
4. Dhaneshwar Yadav
5. Rajesh Yadav
   All sons of Late Moti Vadav residing at Village & P.O. Dibha P.S. & District – Chatra,
6. Md. Hafij son of Abdul Rahim resident of Village & P.O.-Nagwan P.S. & District – Chatra. … Respondents

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CORAM: HON'BLE THE CHIEF JUSTICE

For the Appellant: Mr Alok Lal, Advocate
Mr Santosh Kumar, Advocate

Reserved on: 24.08.2026 **Pronounced on: 27.08.2026**

1. Heard the learned counsel for the parties.

2. This miscellaneous appeal by the New India Assurance Company Ltd. challenges the Judgment and Award dated 30.11.2016 of the Motor Vehicles Accident Claims Tribunal, Chatra, in Claim Case No. 34 of 2008. By the said award, the Tribunal directed the appellant-insurer to pay a sum of Rs.95,000/- (after adjustment of interim compensation of Rs.50,000/-) with interest at 6 % per annum from the date of the claim petition, with liberty to recover the amount from the owner of the vehicle.

3. The appellant insurance company contends that the Tribunal applied the wrong test and procedure in computing compensation and erred in holding that the offending vehicle bore registration

No. JH-13A-3349 rather than HR-13A-3349, and that consequently no liability can be fastened upon the insurer.

4. The claimants, on the other hand, while refuting the appellant's contentions, submit that the compensation awarded is meagre and requires enhancement in accordance with the settled principles laid down by the Hon'ble Supreme Court.

5. Based on the rival arguments and material on record, the following points for determination arise in this appeal: -

I. Whether the Tribunal correctly held that the offending vehicle bore registration No. JH-13A-3349 and that the appellant-Insurance Company is liable to satisfy the award?

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

6. Insofar as the first point of determination is concerned, it is pertinent to observe that the F.I.R. (Ext. 1) pertaining to Rajgir P.S. Case No. 11 of 2008 recorded the registration number as HR-13A-3349. However, after investigation, the charge-sheet (Ext. 2) was submitted against Md. Izhar, driver of Bolero vehicle bearing registration No. JH-13A-3349.

7. It is evident from the record that thereafter, both parties before the Tribunal proceeded on the footing that the charge-sheet related to the JH series vehicle. C.W. 1, Dewal Yadav, an eyewitness and one of the claimants, deposed that the vehicle in which the family was travelling was the Bolero driven by Md. Izhar and that the said vehicle fell into the Bal Ganga River after breaking the railing. His evidence regarding the manner of the accident and the involvement of the vehicle remained unshaken in cross-examination.

8. Furthermore, the Tribunal recorded a clear finding that the accident was caused by vehicle No. JH-13A-3349 due to the rash and negligent driving of its driver. The said finding is based upon a cumulative appreciation of the charge-sheet, the oral evidence of C.W. 1 and the overall probabilities emerging from the record.

9. Accordingly, the discrepancy in the registration number appearing in the F.I.R. is not, by itself, sufficient to dislodge the otherwise consistent evidence regarding the identity and involvement of the vehicle. In a claim under S. 166 of the Motor Vehicles Act, the issue is required to be determined on the touchstone of preponderance of probabilities and not proof beyond reasonable doubt. On an overall appreciation of the evidence, this Court is satisfied that the involvement of vehicle No. JH-13A-3349 stands established.

10. The appellants, if serious about such contention, should have led some evidence to establish the same. Relying merely upon some discrepancy in the FIR is not sufficient. In any event, the discrepancy is well explained by the claimant’s documentary and oral evidence.

11. Moving ahead, the insurance policy covering the said vehicle (Exts. 5 and B) was valid from 31.03.2007 to 30.03.2008, whereas the accident occurred on 14.01.2008. The vehicle was, therefore, insured with the appellant at the relevant time. The Tribunal below further found breach of the policy conditions on account of commercial use of a private-car policy, overloading beyond the permitted seating capacity and the driver possessing a fake driving licence.

12. Having regard to the principles laid down by the Hon'ble Supreme Court in **National Insurance Co. Ltd. v. Swaran Singh, (2004) 3 SCC 297,** the Tribunal directed the appellant-insurer to satisfy the award in the first instance, with liberty to recover the amount from the owner. There was no challenge to this direction in this appeal.

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

14. With respect to Point No. (ii), which deals with the issue of just and reasonable compensation, it is pertinent to state that the Tribunal assessed the age of the deceased Koshmi Devi at 70 years based on the F.I.R. and the post-mortem report, applied multiplier 5, took a notional monthly income of Rs. 3,000/-, deducted one-fourth towards personal expenses and awarded Rs.1,35,000/- towards loss of dependency and Rs. 10,000/- towards funeral expenses. After adjusting the interim compensation of Rs.50,000/-, the net amount payable was fixed at Rs.95,000/- with interest at 6%.

15. However, having perused the entire evidence on record, this Court is of the opinion that the finding regarding the age of the deceased cannot be sustained. C.W.1, the son of the deceased, stated in his examination-in-chief that his mother was about 55 years of age at the time of the accident. His testimony remained unrebutted and unshaken in cross-examination. The claim petition mentioned her age as 48 years; however, it is settled law that pleading cannot, by itself, override oral evidence subsequently brought on record.

16. The age of 70 years recorded in the F.I.R. and the post-mortem report appears to have been an estimate and is not shown to have been based upon any scientific determination. The deceased's occupation as a brick-kiln labourer, an admitted fact, also supports the evidence that she was considerably younger than 70 years.

17. Accordingly, in the absence of any material establishing that the age recorded in the F.I.R. and the post-mortem report was based upon a scientific assessment and having regard to the consistent testimony of C.W.1, this Court finds no reason to discard his evidence. The deceased is accordingly held to have been 55 years of age at the time of her death.

18. The monthly income of Rs. 3,000/- assessed by the Tribunal on a notional basis appears reasonable. Though no documentary evidence has been produced to establish the deceased's earnings from the brick-kiln, the evidence on record does indicate that she was engaged in earning activities. Significantly, even the suggestion put to the witness on behalf of the opposite party was that the deceased was engaged in selling milk proceeds on the basis that she had an independent source of income.

19. In these circumstances, and in the absence of any material warranting a lower assessment, this Court finds no reason to interfere with the monthly income of Rs. 3,000/- assessed by the Tribunal. The annual income accordingly comes to Rs.36,000/-.

20. The deceased was 55 years of age and self-employed. In terms of **National Insurance Co. Ltd. v. Pranay Sethi, (2017) 16 SCC 680**, an addition of 10% towards future prospects is warranted. The annual income for computation thus comes to Rs. 39,600/-.

21. As per the table enunciated in **Sarla Verma v. DTC, (2009) 6 SCC 121**, the appropriate multiplier for the age group of 51–55 years is 11. Having regard to the number of claimants, i.e. 05, a deduction of one-fourth towards personal and living expenses is appropriate. The loss of dependency is accordingly calculated as follows:

Rs. 39,600/- × 11 = Rs. 4,35,600/-
Less 1/4th = (Rs. 1,08,900/-)
Loss of dependency = Rs. 3,26,700/-.

22. Insofar as the conventional heads are concerned, the principles laid down in **Pranay Sethi (supra) and Magma General Insurance Co. Ltd. v. Nanu Ram @ Chuhru Ram, (2018) 18 SCC 130**, are applicable. The five sons of the deceased are entitled to compensation towards loss of filial consortium at Rs. 40,000/-

each, amounting to Rs. 2,00,000/-. A further sum of Rs. 15,000/- is awarded towards loss of estate and Rs. 15,000/- towards funeral expenses.

23. The total compensation is, therefore, as follows:

> **Loss of dependency = Rs. 3,26,700/-,**
> **Loss of estate = Rs. 15,000/-,**
> **Funeral expenses = Rs. 15,000/-**
> **Loss of consortium = Rs. 2,00,000/-.**

24. The total comes to Rs. 5,56,700/-, which is rounded off to **Rs. 5,60,000/-.**

25. At this juncture, it is pertinent to observe that, on the question of enhancement of compensation, the power of this Court on the appellate side under Order XLI Rule 33 of the Code of Civil Procedure is sufficiently wide to enable this Court, in an appropriate case, even in the absence of a cross-appeal or cross-objection, to grant such relief as may be necessary to do complete justice between the parties.

26. The Hon'ble Supreme Court, in **Nagappa v. Gurudayal Singh, (2003) 2 SCC 274**, held that a Motor Accidents Claims Tribunal can award compensation more than what may be claimed in the claim petition.

27. In the case of **Surekha v. Santosh, (2021) 16 SCC 467**, the Hon'ble Supreme Court has categorically recognised the Appellate Court's power to award just compensation even in the absence of a formal appeal or cross-objection.

28. The MV Act provisions cast a duty upon the Tribunal to determine and award just compensation irrespective of whether it is claimed or not. An appeal against the Tribunal's award is, in a sense, a continuation of the original proceedings. This duty cannot be abandoned simply because no cross-appeal or cross-objections may have been filed. The powers of the appellate court are quite wide and, having regard to the purpose of enacting the beneficial provisions to ensure that victims are justly and quickly compensated, they must be liberally construed.

29. Pertinently, in the case at hand, the deceased was a poor labourer working in a brick-kiln, and the claimants are his legal representatives. Having regard to the nature of the claim and the circumstances in which the proceedings arise, this, therefore, is a fit case for this Court to exercise its appellate jurisdiction and enhance the compensation in the light of the principles laid down in the aforesaid decisions and the discussion made herein-above.

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

31. The appeal is dismissed. The compensation is enhanced from Rs.1,45,000/- to Rs. 5,60,000/- with interest at 6% per annum from the date of filing of the claim petition till actual realization. The interim compensation of Rs. 50,000/- already paid shall stand adjusted.

32. The appellant-insurer shall satisfy the enhanced award at the first instance and shall be entitled to recover the entire amount from the owner of the vehicle in accordance with the liberty already granted by the Tribunal and affirmed by this Court.

33. The appellant-Insurance Company is directed to deposit the enhanced amount, i.e. Rs. 5,60,000/- before the Tribunal within six weeks from today, after due intimation to the learned counsel for the claimants.

34. Upon deposit, the Tribunal shall permit the claimants to withdraw the amount by transfer to their joint bank account through regular banking channels.

35. The learned counsel for the claimants shall furnish the necessary identity and bank particulars to the Tribunal.

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

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

27.08.2026
N.A.F.R.
APK/Amar
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