

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Miscellaneous Appeal No. 201 of 2015

National Insurance Company Limited at B.P. Agrawalla Building, P.O.
Dhansar, P.S Bank More, Town & District-Dhanbad
... Appellant

Versus

1. Sri Krishna Singh aged about 74 years, S/o Late Ramji Singh, R/o Sector-IV-A, Street No-05, Qtr. No. - 2201, Bokaro Steel City, P.O. & P.S. - B.S. City, Dist. – Bokaro.
2. Surendra Ray, son of Shivji Ray resident of Chirkunda, P.O. & P.S. Chirkunda, District-Dhanbad
3. Nina Devi wife of Nagendra Kumar Singh resident of Chiragora, P.O., P.S. & District- Dhanbad
4. New India Assurance Co. Ltd. Divisional Office AT at B.P. Agrawalla Building, P.O. & P.S. Dhansar, Town & District-Dhanbad.

... Respondents

With

Miscellaneous Appeal No. 272 of 2020

Sri Krishna Singh aged about 74 years, S/o Late Ramji Singh, R/o Sector-IV-A, Street No-05, Qtr. No. - 2201, Bokaro Steel City, P.O. & P.S. B.S. City, Dist. – Bokaro.

... Appellant

Versus

1. Surendra Ray s/o Shivji Ray, R/o Chirkunda, P.O & P.S Chirkunda, District Dhanbad.
2. National Insurance Co. Ltd., At. B.P Agrawalla Building, Dhansar, P.O. Dhanbad, P.S- Bank More, District- Dhanbad.
3. Nina Devi, W/o Nagendra Kumar Singh, R/o Chiragora, P.O & P.S- Dhanbad, District Dhanbad.
4. M/S the New India Assurance Company Ltd., Divisional office at B.P Agarwalla, Building, Dhansar, P.O & P.S -Dhansar, District-Dhanbad.

... Respondents

CORAM: HON'BLE THE CHIEF JUSTICE

For the Appellant-NICL: Mr Alok Lal, Advocate
Mr Santosh Kumar, Advocate
For the Claimants: Mr Ishan Ashish, Advocate
Mr Nikhil Ranjan, Advocate
For Resp No.4/NIACL: Mr Amaresh Kumar, Advocate
Ms Riya Raj, Advocate

Reserved on: 18/09/2026

Pronounced on: 29/09/2026

1. Heard learned counsel for the parties.
2. These appeals challenge the Judgment and Award dated 05.11.2014 passed by the District Judge-cum-M.A.C.T. Judge-VII, Dhanbad, in Title (M.V.) Suit No. 93 of 2002.
3. By the said Award, the Tribunal directed National Insurance Company Limited, the insurer of truck No. BR-17A-9311, to pay compensation of Rs. 27,22,841/- with interest at 9% per annum from the date of filing of the claim petition till its realisation.
4. The original claimant of Title (M.V.) Suit No. 93 of 2002, namely, Praveen Kumar @ Praveen Kumar Singh, died on 18.01.2024 during the pendency of these appeals. His name has accordingly been deleted. His father, Sri Krishna Singh, has been substituted in his place and is prosecuting both the appeals.
5. Mr Alok Lal, learned counsel for the National Insurance Company Limited, submitted that the original claim was one for personal injury. Upon the death of the injured claimant, he submitted, the proceedings could not be continued by his legal representatives in view of Section 306 of the Indian Succession Act, 1925.
6. In the alternative, and without prejudice to the primary contention regarding abatement, Mr Lal submitted that even assuming arguendo that the claim survives the death of the original injured party, the scope of compensation must strictly remain confined to the pecuniary loss caused to the estate of the deceased on account of medical expenses and actual monetary loss suffered, and cannot, by any stretch of judicial interpretation, be converted into or assessed as a claim arising out of fatal injury or death.

7. Assailing the evidentiary basis of the impugned Award, Mr Lal submitted that the original injured claimant was never produced for examination before the Tribunal. Expanding on this, he contended that while the medical experts were examined on commission, the claimant took no steps to have his own deposition recorded on commission, despite his alleged physical incapacity to attend open court, thereby leaving a serious evidentiary gap in the record.
8. In the same vein, Mr Lal pointed out that the disability certificate relied upon by the Tribunal was issued in 2006, whereas the accident in question occurred in 2001, rendering the assessment of disability wholly remote, unauthenticated, and unreliable.
9. Finally, it was submitted that the Tribunal below fell into grave error in accepting provisional cash deposit receipts to quantify the medical expenses, rather than requiring the production of the final authenticated hospital discharge bills.
10. On these grounds, Mr Lal urged that the impugned award is wholly unsustainable in law and on facts, and warrants interference by this Court to calibrate the compensation to a just and reasonable figure in accordance with settled principles of law.
11. M.A. No. 272 of 2020 was filed by the injured claimant. After his death, it is being prosecuted by his father, namely Sri Krishna Singh.
12. Mr Ishan Ashish, learned counsel for the claimant, argued that the compensation awarded by the Tribunal is inadequate and does not amount to just compensation. He submitted that the

appeal does not abate upon the claimant's death and is saved by **Section 166(5)** of the **Motor Vehicles Act, 1988**, as well as the law laid down by the Hon'ble Supreme Court in **Dhannalal @ Dhanraj (Dead) through LRs v. Nasir Khan, 2025 INSC 1177**.

13. Further, relying on **Kajal v. Jagdish Chand, (2020) 4 SCC 413**, and **Gayatree Pattnaik v. Arundhati Sahoo, 2026 INSC 785**, he urged that the compensation ought to be enhanced after proper assessment of monthly income, loss of future earnings, medical expenses, and attendant charges.

14. Based on the rival contentions, the following points arise for determination:

- I. Whether the claimant's appeal fails because the original claimant died on 18.01.2024?*
- II. Whether the liability fastened upon the insurer is liable to be set aside on the grounds that the original claimant was not examined and that the disability certificate was issued in 2006?*
- III. Whether the compensation determined by the Tribunal represents just compensation and, if not, on what basis is it required to be redetermined?*

15. Insofar as the first point is concerned, the insurer's objection cannot be accepted for the simple reason that the answer is clear and squarely covered by s 166(5) of the Motor Vehicles Act. S. 166(5) was inserted by Act 32 of 2019 with effect from 01.04.2022 and reads as follows:

"Notwithstanding anything in this Act or any other law for the time being in force, the right

of a person to claim compensation for injury in an accident shall, upon the death of a person injured, survive to his legal representatives, irrespective of whether the cause of death is relatable to or had any nexus with the injury or not."

16. On a bare reading of the aforesaid provision, it is evident that it begins with a non-obstante clause and operates notwithstanding anything contained in any other law for the time being in force. Section 306 of the Indian Succession Act, 1925, therefore, does not control or restrict the survival of such a claim.
17. Moreover, in the case of **Dhannalal @ Dhanraj (Dead) (Supra)**, the Hon'ble Supreme Court applied S. 166(5) to a case where an injured claimant, who had suffered 100% disability, died during the pendency of the appeal. It was held that the right to claim compensation for personal injuries survives to the legal representatives even where the death bears no nexus with the accident.
18. In the present case, Praveen Kumar Singh died on 18.01.2024, after S. 166(5) had come into force. Consequently, these appeals do not abate, and Sri Krishna Singh (the deceased's father) is legally entitled to continue the proceedings.
19. That conclusion, however, does not convert the proceeding into a claim for a fatal accident. **Dhannalal (supra)** proceeded on the clear footing that the injury claim survives. The compensation must, therefore, remain just compensation for the injuries

suffered during the victim's lifetime and cannot become a windfall to the legal representatives.

- 20.** In addition to this, unless the record establishes that the injuries directly caused the death, which, in the instant case, it does not, as the death occurred almost 23 years after the date of the accident, the conventional heads of compensation applicable to a fatal accident, such as loss of dependency, loss of consortium and funeral expenses arising from the death, would not apply. The assessment must remain one for personal injury and loss to the estate.
- 21.** Point No. (I) is answered accordingly.
- 22.** Insofar as the second point is concerned, the insurer's first objection is that the original claimant was not examined. The accident dated 08.05.2001 involved three occupants of Maruti Zen bearing Registration No. BR-17F-6358.
- 23.** Title (M.V.) Suit Nos. 70, 71 and 93 of 2002 arose out of the same accident and were tried analogously. P.W.-4, Ramesh Chitrakar, the driver of the car and himself an injured claimant, and P.W.-5, Sri Krishna Singh, an occupant of the car, an injured claimant and the father of Praveen, were examined. P.W.-2 and P.W.-3, who were eyewitnesses to the accident, were also examined.
- 24.** The factum of the accident, the identity of truck No. BR-17A-9311, and the rash and negligent manner in which the said truck was driven, were thus established through the testimony of persons who were either travelling in the car or present at the spot. Their testimony has withstood cross-examination.

- 25.** The injuries suffered by Praveen were also not left to rest upon his own testimony. Dr Rajendra Prasad (P.W.-13), Senior Consultant, Neurosurgery, Indraprastha Apollo Hospital, Delhi, treated him from 13.05.2001 to 23.05.2001 and proved the cash receipts, medicine bills, surgery charges and the wheelchair bill. Dr R.C. Mishra (P.W.-12) spoke about his admission at Apollo, Ranchi, and his subsequent transfer to Delhi. Dr Ajit Kumar Singh (P.W.-10) proved the disability certificate.
- 26.** Ujjawal Kumar Singh (P.W.-7) proved the local medicine and diagnostic bills. From the records, it is quite apparent that the original claimant was a quadriplegic. He moved in a wheelchair and had lost control of his bowel and bladder. In such circumstances, the omission to examine him or to issue a commission to record his statement does not demolish a case otherwise established through the evidence of occupants, eyewitnesses, treating doctors, and contemporaneous hospital records.
- 27.** The second objection is that the disability certificate was issued in 2006, whereas the accident took place in May 2001. In this regard, there is no hard and fast rule that the permanence of a spinal injury must, in every case, be certified at the earliest and cannot be certified after a period of observation.
- 28.** As per the materials on record, the disability certificate (Exhibit-4) was proved by the doctor who issued it. It records 90% permanent disablement. This finding is consistent with the evidence of the neurosurgeon that the claimant could not attend to his daily pursuits and had lost control of his bowel and bladder.

The Tribunal treated the functional disability as 100%. On the medical evidence available on record, that conclusion is justified. A certificate issued five years after the accident, when proved by its author and corroborated by the treating neurosurgeon, does not become unreliable merely because it was not issued on the date of the accident or soon after the accident.

29. Resultantly, both the objections fail. Point No. (II) is accordingly answered against the insurer.
30. Insofar as the third point is concerned, the claimant has himself preferred M.A. No. 272 of 2020 seeking enhancement of the compensation awarded by the Tribunal. The question, therefore, is whether the compensation determined by the Tribunal represents just compensation and, if not, to what extent it requires enhancement.
31. The insurer is right to this limited extent that the claim remains one for personal injury. **Dhannalal (supra)** also requires that the multiplier not extend beyond the life actually lived, so as not to result in a windfall. The injured claimant lived from May 2001 until January 2024, a little over twenty-two years.
32. The multiplier of 18, which **Sarla Verma v. Delhi Transport Corporation, (2009) 6 SCC 121** and **Gayatree Pattnaik (supra)** prescribe for the relevant age group, does not exceed that period. The said multiplier can, therefore, be applied. What cannot be done is to add, over and above such assessment, a second full package as though the claim had been one for death arising from the accident.

33. The Tribunal took the notional income of Rs. 15,000/- per annum from the Second Schedule to Section 163-A of the Act and, applying 100% loss of earning capacity and a multiplier of 18, awarded Rs. 2,70,000/- towards loss of future earnings. That approach is erroneous. The claim was under S. 166. In that event, the Second Schedule to S. 163-A has no application.
34. In the case of **Kajal (supra)** and, thereafter, in **Gayatree Pattnaik (supra)**, the Hon'ble Supreme Court has held that a child suffering catastrophic permanent disability cannot be treated as a non-earner or as an unskilled labourer. The Court must have regard to the future that has been lost. Loss of earning capacity is required to be assessed with reference to the minimum wages of a skilled worker in the State at the relevant time, together with future prospects, based on functional and not merely physical disability, and by applying the multiplier appropriate to the age.
35. The injured claimant was 17 to 18 years of age. The discharge summary of Indraprastha Apollo Hospital, marked Exhibit-8, records his age as 17 years. His father deposed that he was 18 years of age. He had also passed the CBSE secondary examination. The accident resulted in injury to the cervical spine at C5-C6 and quadriplegia. It destroyed any realistic prospect of a working life. The disability affecting all four limbs, together with loss of bowel and bladder control, amounts to 100% functional disability. The medical assessment of 90% physical disability understates the economic loss. A person who cannot use his limbs and cannot control his bowel and bladder cannot earn.

(See: **Raj Kumar vs. Ajay Kumar, (2011) 1 SCC 343** and **Shankar Dutt vs. United India Insurance Co. Ltd., 2026 SCC OnLine SC 1193**)

36. The medical condition in the present case is not without precedent. In **Kajal (supra)**, the child suffered involvement of all four limbs, incontinence and complete dependence. In **Gayatree Pattnaik (supra)**, the infant suffered post-traumatic myelopathy with paraplegia. The certified physical disability in that case was 90%. The Hon'ble Supreme Court nevertheless treated the functional disability as 100%, since the child would never be independently capable of earning a livelihood.
37. As per the records of the instant case, Praveen Kumar Singh (original claimant) suffered a burst fracture of C5 and C6, cord compression and quadriplegia, together with loss of bowel and bladder control. His disability certificate records 90% permanent disablement. The functional consequence is comparable to the cases of **Kajal (supra)** and **Gayatree Pattnaik (supra)**. His earning capacity was, therefore, extinguished. The assessment of income, future prospects, and multiplier must accordingly follow those principles, not the Second Schedule figure adopted by the Tribunal.
38. There is no wage register in respect of a student. **Gayatree Pattnaik (supra)** and **Kajal (supra)** require the Court to take the wages of a skilled worker at the relevant time rather than the Second Schedule figure of Rs. 15,000/- per annum. The accident occurred in May 2001 in this region. A monthly income of Rs. 3,000/- for skilled work at that time is a conservative but realistic

assessment. It is neither the unskilled wage floor nor an assumed professional income, which the record does not establish.

- 39.** A provision for future prospects at 40% must also be made/added, as the injured claimant was under 40 years of age and the assessment is based on notional skilled work. Accordingly, the monthly income is Rs. 4,200/-. The annual income is Rs. 50,400/-. Applying 100% functional disability and a multiplier of 18, the loss of future earnings is Rs. 9,07,200/-.
- 40.** On the question of medical expenses, the insurer submitted that the Tribunal acted upon cash deposit receipts instead of a final hospital bill. The receipts marked Exhibits 11 series, 13 and 13/1, the surgery certificate of Rs. 2,50,000/- marked Exhibit-17, the motorised wheelchair bill of Rs. 1,48,700/- marked Exhibit-18, and the medicine bills were proved through Dr Rajendra Prasad and Ujjawal Kumar Singh.
- 41.** These documents relate to contemporaneous payments made to the hospital and pharmacy for the treatment of the claimant. A final consolidated bill is not the only mode of proving treatment expenditure. Deposits made for continuing inpatient treatment at a hospital, over a period, constitute evidence of expenditure actually incurred. The amount of Rs. 20,62,841/- awarded by the Tribunal towards medicines and medical treatment is, therefore, maintained.
- 42.** The Tribunal rejected the acupressure bills totalling Rs. 9,80,000/- on the ground that P.W.-6's qualifications had not been satisfactorily established. It nevertheless awarded a lump sum of Rs. 2,00,000/- for physiotherapy, noting that Dr. Rajendra

Prasad had stated that treatment was continuing and that the claimant was unable to attend to his daily pursuits. That medical condition did not end in 2014. The injured claimant lived until January 2024. Some physiotherapy and nursing care of that nature would necessarily have continued for more than two decades. The specific bills produced by P.W.-6 cannot, however, be restored. A lump sum of Rs. 4,00,000/- for physiotherapy, past and continuing until death, would be just and is therefore awarded to the claimant.

43. The Tribunal awarded Rs. 1,00,000/- towards pain and suffering and Rs. 50,000/- towards loss of amenities. These amounts do not adequately reflect the nature of the injury suffered. The claimant was a student aged 17 or 18 years. He was rendered quadriplegic, remained dependent upon a wheelchair and a waterbed, and lost control of his bowel and bladder. He remained in that condition for about twenty-two years.
44. The dicta in **Kajal (supra)** and **Gayatree Pattnaik (supra)** require these heads to reflect the loss actually suffered and not a token amount. At the same time, the injured claimant has since died. Having regard to the circumstances, a sum of Rs. 5,00,000/- towards pain and suffering and Rs. 3,00,000/- towards loss of amenities would be appropriate and is accordingly awarded to the claimant.
45. The Tribunal awarded Rs. 30,000/- towards conveyance and Rs. 10,000/- towards special diet. The claimant was taken from the place of occurrence to Jhumri Tilaiya, thereafter to Apollo, Ranchi, and then to Apollo, Delhi. His father spoke about air

travel with a doctor in attendance. There were also subsequent journeys for medical review. In the circumstances, the amount awarded towards conveyance requires enhancement.

46. Similarly, the special diet required by a person suffering from such an injury, over the period during which he survived, cannot reasonably be confined to Rs. 10,000/-. Accordingly, a sum of Rs. 1,00,000/- towards conveyance and Rs. 1,00,000/- towards special diet is awarded.
47. As regards attendant charges, P.W.-8 and P.W.-9 spoke about payment of Rs. 3,000/- per month. The Tribunal did not accept the claim regarding two attendants simultaneously. It nevertheless accepted that at least one attendant was necessary for a person confined to a wheelchair and having lost control of bowel and bladder.
48. As regards attendant charges, P.W.-8 and P.W.-9 deposed to payment of Rs. 3,000/- per month towards attendant charges. In **Kajal (supra)**, the Hon'ble Supreme Court held that attendant charges must be capitalised using the multiplier rather than confined to a token lump sum. Taking one attendant at Rs. 3,000/- per month, as deposed, the annual attendant charge comes to Rs. 36,000/-. Applying the multiplier of 18, the amount under this head comes to Rs. 6,48,000/-. Such capitalisation does not exceed the period for which the injured claimant actually lived.
49. Some medical expenditure after 2005 has not been fully brought on the deposit charts. However, the treatment did not end in 2005. Having regard to the nature of the injury and the period for

which the claimant survived, a further sum of Rs. 3,00,000/- towards continuing medical treatment until his death would be just and reasonable. No amount is awarded towards medical care after 18.01.2024.

50. The compensation is, therefore, redetermined as follows:

Head	Amount (Rs.)
Loss of future earnings	9,07,200
Medicines and medical treatment	20,62,841
Physiotherapy	4,00,000
Pain and suffering	5,00,000
Loss of amenities	3,00,000
Conveyance	1,00,000
Special diet	1,00,000
Attendant charges	6,48,000
Continuing medical treatment	3,00,000
Total	53,18,041

51. The total compensation thus comes to Rs. 53,18,041/-. The same is rounded off to Rs. 53,18,000/-. The said amount is awarded to the claimant as just compensation.

52. Point No. (III) is accordingly answered in favour of the claimant.

53. Accordingly, it is made clear that the claimant shall be entitled to compensation of Rs. 53,18,000/-, in place of Rs. 27,22,841/- awarded by the Tribunal.

54. The compensation amount shall bear interest at the rate of 9% per annum, as awarded by the Tribunal, from the date of filing the claim petition until its actual realisation.

55. Necessary adjustment shall be made towards the amounts already paid, including the statutory deposit, if any, made during the pendency of the claim proceedings or the present appeals.
56. M.A. No. 272 of 2020, preferred by the claimant, is **allowed**. M.A. No. 201 of 2015, preferred by the insurer, is **dismissed**.
57. The appellant-Insurance Company is directed to deposit the enhanced compensation amount, after giving due adjustment to the amount already paid or deposited, within eight weeks from today, after giving due intimation to the learned counsel for the claimant.
58. Upon such deposit, the Registry shall permit Mr Krishna Singh, the claimant's father, to withdraw the compensation amount in accordance with the law. Mr Singh shall provide the necessary identity and bank details so that the amount may be transferred directly to his bank account. Under no circumstances shall any withdrawal other than through regular banking channels be permitted by the Registry.
59. The appeals are accordingly disposed of in the above terms. There shall be no order as to costs.
60. Pending Interlocutory Applications, if any, shall not survive and are accordingly disposed of.

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

September 29, 2026

A.F.R.

APK/VK

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