(2026:JHHC:32665)

IN THE HIGH COURT OF JHARKHAND AT RANCHI

M.A. No. 447 of 2017

Branch Manager, United India Insurance Co. Ltd. B.O. Hotel Prabha Building, Main Market, P.O. & P.S.- Deoghar, PIN-914112.

... ... Appellant

Versus

1. Gullu Soren @ Golu Soren, son of Late Pradhan Soren, resident of Village-Kolkhipara, P.O.& P.S.- Amrapra, District- Pakur (Claimant).
2. Manoj Kumar Bhagat, son of Laxman Pd. Bhagat, resident of Village, P.O. & P.S.- Amrapara, District- Pakur (Owner).

… ... Respondents

CORAM : HON'BLE THE CHIEF JUSTICE

For the Appellant : Mr Alok Lal, Advocate
For the Respondent No.1: Mr Achinto Sen, Advocate

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8 /Dated: 06.11.2026

1. Heard Mr Alok Lal, learned counsel for the appellant-insurance company and Mr Achinto Sen, learned counsel for the 1st respondent-claimant.

2. The records and proceedings have been called for and are available. This is an appeal of the year 2017. Accordingly, the appeal is taken up for final disposal.

3. The appeal is directed against judgment and award dated 24th March 2017 made by the MACT, Pakur in MACT Case No. 51 of 2013.

4. Mr. Alok Lal submitted that the deceased, in this case, was a gratuitous passenger in a goods vehicle and therefore, there was no question of the appellant-insurance company being required to indemnify the owner of the insured tractor.

5. No issue was framed on the aspect of the deceased being a gratuitous passenger. However, since such defence appears to have been raised in the written statement filed on behalf of the appellant insurance company, the non-framing of such an issue cannot be held against the appellant insurance company. However, raising such a defence is not sufficient. The appellant

insurance company was required to lead evidence to this effect. No evidence has been led by the appellant insurance company in this matter.

6. On the contrary, the claimant has pleaded that the deceased was not a passenger in the Tractor, but the accident occurred on 24.09.2002 when the deceased was going to the house from Kolkhipara towards the left side of the road and the offending vehicle (tractor and trailer) which was being driven very rashly, hit the deceased resulting in his fatality. The claimant has led evidence and proved his case. There is no evidence from the insurance company about the deceased being a passenger much less a gratuitous passenger. Accordingly, the plea now raised cannot be sustained for want of proof. Since no other ground was raised, this appeal is liable to be dismissed and is hereby dismissed.

7. The Tribunal has, in this case, not awarded just compensation. There is evidence that the deceased was an agricultural labourer and used to earn Rs.6000 per month. The Tribunal has, however, noted that the claimant did not produce any chit of paper regarding the income of the deceased and therefore, by relying on the structured formula held that the deceased was earning only Rs.1500 per month. Considering that the accident was in the year 2002, the income should be taken at least Rs. 3000/- per month.

8. No compensation has been awarded towards loss of estate, funeral expenses or consortium, in terms of the law laid down in ***Sarla Verma v. DTC*****, (2009) 6 SCC 121**. The multiplier in this case would be 17, since the deceased was 30 years at the time of his unfortunate demise in a vehicular accident.

9. Based upon these factors, the just compensation would work out to Rs. 4,98,400/-. This is after deducting 50% of the annual income which the deceased would have spent on himself and adding 40% towards future prospects.

10. The Hon'ble Supreme Court, in the case of ***Surekha Vs Santosh***, **(2021) 16 SCC 467** has held that it is the duty of the Court to award just compensation irrespective of the claimant's filing a cross appeal or a cross objection.

11. Mr Lal, however, submitted that the claimant in this case was the brother and therefore, would not be regarded as a dependent. He relied on ***Smt Manjuri Bera v. Oriental Insurance Co. Ltd.***, **(2007) 10 SCC 643** to support this contention.

12. In the case of ***Smt. Manjuri Bera*** (*supra*), the Hon'ble Supreme Court considered the case of a married daughter even though there was no evidence about her being dependent on the deceased.

13. In this case, the claimant-brother has clearly pleaded and proved that he was dependent on his elder brother. The claimant deposed that his parents had died before the accident and therefore, his deceased brother was looking after him. Accordingly, there was no error in awarding compensation to the claimant. The only issue was the compensation of Rs. 2,04,000/- awarded did not represent 'just compensation'.

14. Accordingly, this appeal is disposed of by rejecting the appellant's contention but by determining the just compensation at Rs. 4,98,400/- payable with 6% interest per annum, as directed in the impugned award.

15. Mr Lal states that the originally awarded amount has been deposited in this Court. The enhanced amount will now have to be deposited in this Court within two months from today after giving due intimation to the learned counsel for the claimant. The statutory amount deposited by the appellant can be adjusted.

16. Upon deposit, the Registry to transfer this amount into the claimant's bank account after bank and identity details are furnished. Under no

circumstances, the amount should be transferred otherwise than through regular banking channels.

17. This appeal is disposed of in the above terms without any order for costs.

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

November 06, 2026
Ranjeet / R.Kr.
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