IN THE HIGH COURT OF JHARKHAND, RANCHI
W.P. (C.) No. 5601 of 2009
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1. Meena Devi, wife of Late Ganesh Singh
2. Pawan Kumar, son of Late Ganesh Singh
Both are residents of village – Chitapiri, PO – Amapatana, PS – Kamdara, District - Gumla **.... Petitioners**

-- Versus --

1. The Union of India, through Chairman Insurance Regulatory and Development Authority, Ground Floor, Jeevan Bharati Building Tower – I, 124, Cannaught Place, New Delhi, 11001
2. The Chairman, Insurance Regulatory and Development Authority (ARDA) Ground Floor, Jeevan Bharati Building Tower – I, 124, Cannaught Place, New Delhi, 11001
3. The Chair Man of Office of Insurance Ombudsman 29, Netajee Subhas Road (3rd Floor), Kolkata, 700001
4. The Divisional Manager, National Insurance Company, 8 India Exchange Place, Kolkata
5. The Manager Golden Trust Financial Service 16 RN, Mukherjee Road, Kolkata, 70001 **.... Respondents**

CORAM: HON'BLE MR. JUSTICE SANJAY KUMAR DWIVEDI

For the Petitioners :- Mr. Sunil Kumar, Advocate
For the Respondents :- Mr. Amaresh Kumar, Advocate
:- Ms. Riya Raj, Advocate

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*11/**04.05.2026*** Heard learned counsel appearing for the petitioners and learned counsel appearing for the National Insurance Company.

2. This petition has been filed under Article 226 of the Constitution of India for quashing of the letter dated 20.02.2009 contained in Annexure-9 passed by Divisional Manager of National Insurance Company whereby the claim of the petitioner has been

repudiated.

3. At the outset, Mr. Amaresh Kumar, learned counsel appearing for the National Insurance Company objected of entertaining the writ petition on the ground that the petitioners are having the alternative remedy either by way of approaching the District Consumer Redressal Forum or by way of filing the appropriate suit. On this ground, he submits that the writ petition may kindly be disposed of with liberty to the petitioners to approach the appropriate forum.

4. Learned counsel appearing for the petitioners submits that the writ petition was filed in the year 2009 itself and once it was adjourned, however, Co-ordinate Bench of this Court by order dated 08.06.2022 has been pleased to entertain the writ petition and thereafter several orders have been passed by the Co-ordinate Benches of this Court. He further submits in view of that it will be harsh to ask the petitioner to approach the competent court.

5. This writ petition was already filed in the year 2009 and thereafter Co-ordinate Benches have entertained this petition and further considering that the dispute is with regard to a policy of Rs.1 lakh only. It has been pointed out that the petitioner No.2 is the son of petitioner No.1 and petitioner No.1 is a poor lady and her husband has died and now directing the petitioners to avail alternative remedy will be harsh when the writ petition was entertained earlier and in that view of the matter this writ petition is being entertained by this Court exercising discretionary jurisdiction.

6. Mr. Sunil Kumar, learned counsel appearing for the petitioners submits that Ganesh Singh was the husband of petitioner No.1 and the father of petitioner No.2 had purchased accidental insurance policy from National Insurance Company Limited on 23.01.2004 and that was valid till 22.01.2019 and the policy was known as Janata Personal Accident Insurance Policy. He further submits that the dead body of the husband of petitioner No.1 was recovered on 30th June, 2006 and as such the FIR was lodged by petitioner No.1 being Kamdara P.S. Case No.35 of 2005 dated 30.06.2006 corresponding to G.R. No.579 of 2006 registered under Sections 364, 302, 201 and 34 of Indian Penal Code. He then submits, in this background, the petitioner has claimed the insurance amount which is Rs.1 lakh, however, same was repudiated by order dated 20.02.2009 that the husband of petitioner No.1 was murdered as it was not an accident.

7. Learned counsel appearing for the petitioners submits that the ground is not tenable in view of the fact that the deceased was not a hardened criminal, he was kidnapped and thereafter he was murdered. He further submits that the same was on the other felonious act in view of that it was not a murder. To buttress this argument, he relied in judgment of Hon'ble Supreme Court in the case of ***Rita Devi (Smt.) & Ors. versus New India Assurance Co. Ltd. & Anr. reported in (2000) 5 SCC 113*** and he refers to paragraph Nos.10 and 11 wherein it has been held as under :-

> ***10.*** *The question, therefore is, can a murder be an accident in any given case? There is no doubt that*

"murder", as it is understood, in the common parlance is a felonious act where death is caused with intent and the perpetrators of that act normally have a motive against the victim for such killing. But there are also instances where murder can be by accident on a given set of facts. The difference between a "murder" which is not an accident and a "murder" which is an accident, depends on the proximity of the cause of such murder. In our opinion, if the dominant intention of the Act of felony is to kill any particular person then such killing is not an accidental murder but is a murder simpliciter, while if the cause of murder or act of murder was originally not intended and the same was caused in furtherance of any other felonious act then such murder is an accidental murder.

11. *In Challis v. London and South Western Rly. Co. [(1905) 2 KB 154 : 74 LJKB 569 : 93 LT 330 (CA)] the Court of Appeal held where an engine driver while driving a train under a bridge was killed by a stone wilfully dropped on the train by a boy from the bridge, that his injuries were caused by an accident. In the said case, the Court rejecting an argument that the said incident cannot be treated as an accident held:*

"The accident which befell the deceased was, as it appears to me, one which was incidental to his employment as an engine driver, in other words it arose out of his employment. The argument for the respondents really involves the reading into the Act of a proviso to the effect that an accident shall not be deemed to be within the Act, if it arose from the mischievous act of a person not in the service of the employer. I see no reason to suppose that the legislature intended so to limit the operation of the Act. The result is the same to the engine driver, from whatever cause the accident happened; and it does not appear to me to be any answer to the claim for indemnification under the Act to say that the accident

was caused by some person who acted mischievously."

8. He next submits that the person, who was charged for murder, has faced the trial being S.T. No.278 of 2006 and he has been acquitted by the learned Court by judgment dated 28.05.2008.

9. Learned counsel appearing for the Insurance Company vehemently opposed the prayer and submits that it was a murder not an accidental death and in view of that the competent authority has rightly repudiated the claim of the petitioner. He also relied in the case of Rita Devi (supra) and submits that if the dominant intention of the act of felony is to kill any particular person then such killing is not an accidental murder. He submits that in the FIR it has been alleged that the murder has been made due to some dispute.

10. By way of referring to proviso of the said policy, he also submits that any existing disability, intentional self-injuries or suicide, death or disablement under influence of liquor or drug, insanity, breach of law with criminal intention, war and nuclear group of perils, death or disablement due to racing, shooting and mountaineering are not coming within the purview of the said policy. On this ground, he submits that the writ petition may kindly be dismissed.

11. In the FIR only on the basis of assumption allegations are made that a person has killed the husband of petitioner No.1. The clear cut motive or felonious act is not there as to why the husband of petitioner No.1 was killed. He was kidnapped and his dead body

was found later on and difference between a murder and accident has been dealt with by Hon'ble Supreme Court in the case of Rita Devi (supra) and in view of that judgment the only taste is the dominant intention is required to be considered. If the cause of murder or act of murder was originally not intended and the same was caused in furtherance of any other felonious act then such murder is an accidental case.

12. The accident and murder were also considered in the case of ***United India Insurance Company Ltd. vs. Kamlesh & Ors. reported in (2017) SCC Online Del 9853*** wherein the Delhi High Court at paragraph Nos.14 and 15 thereof has been held as under :-

> ***14.*** *In United India Insurance Company Ltd. v. Kanshi Ram, 2006 ACJ 492 (Delhi High Court), a truck going from Delhi to Hyderabad went missing. The police during investigation, located the truck and found that some of the goods being transported in the truck were stolen and the driver was murdered. The legal representatives of the deceased filed an application for compensation before the Commissioner, Workmen's Compensation which was allowed. The insurance company challenged the order in appeal. Following Rita Devi (supra), Madan B. Lokur, J. as he then was, held the murder to be an accident. The Delhi High Court cited with approval the three English cases, namely, Nisbet v. Rayne and Burn (supra), Board of Management of Trim Joint District School v. Kelly, 1914 A.C. 667 and Clover, Clayton and Company, Ltd. v. Hughes, 1910 A.C. 242. The Delhi High Court also cited the judgments of other High Courts, namely, Bhagubai v. Central Railway, A.I.R. 1955 Bom. 105, Satiya v. Sub-Divisional Officer, Public*

Works Department Narsimhapur 1974 (2) L.L.N. 204, Varkeyachan v. Thomman 1979 (1) L.L.N. 477, United India Insurance Company Ltd. v. Philo 1996 (3) L.L.N. 116 and Parle Products, Ltd. v. Subir Mukherjee 2001 (I) L.L.J. 964. The relevant portion of the said judgment is reproduced hereunder:-

> *"3. Sohan Lal was working as a driver with M/s. Manoj Roadlines. As a part of his duties, he was taking a truck from Delhi to Hyderabad alongwith a second driver Jeet Singh. It appears that somewhere in Rajasthan, he was murdered. The truck was missing for a few days and when the police located it during investigation, it was revealed that some of the goods that were being transported in the truck were stolen. Investigations also revealed that Jeet Singh had committed the murder.*
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> *7. What is an accident, and when can it be said that a murder is an accident?*
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> *8. Nisbet v. Rayne and Burn [1910 (2) K.B.D. 689], is a leading case on this subject. A cashier was travelling in a train with a large sum of money intended for payment to his employer's workmen. He was robbed and murdered and the Court of appeal held the murder was an accident from the point of view of the cashier and, therefore, it was an accident within the meaning of that term in the Workmen's Compensation Act, 1923.*
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> *9. Similarly, in Board of Management of Trim Joint District School v. Kelly [1914 A.C. 667], an assistant master at an industrial school was assaulted and killed by two pupils while he was performing his duties. The House of Lords held that for the purpose of the same statute, his death was caused by an accident. Viscount Haldane, L.C. pointed out that the meaning of the term "accident" would vary according as the*

context varies, and as instances mentioned criminal jurisprudence where crime and accident are sharply divided by the presence or absence of mens rea and the law of marine insurance where the maxim: In jure non remota cause sect proximo spectator (in law the proximate, and not the remote, cause is to be regarded) applies.

10. In Clover, Clayton and Company, Ltd. v. Hughes [1910 A.C. 242], Lord Loreburn, L.C. said:

"What, then, is an „accident"? It has been defined in this House as an unlooked for mishap or an untoward event, which is not expected or designed."

11. Our Supreme Court in Rita Devi v. New India Assurance Company, Ltd., [(2000) 5 SCC 113], dealt with a case in which the driver of an auto rickshaw was murdered by his fare paying passengers. The passengers intended to steal the auto rickshaw, for which they had to eliminate the driver. On these facts, the Supreme Court held that the death of the driver was caused accidentally in the process of committing theft of the auto rickshaw.

12. In Bhagubai v. Central Railway [A.I.R. 1955 Bom. 105] (Bombay High Court), the deceased was stabbed to death while he was on his way to join duty. It was not disputed that the death was a result of an accident or that it arose in the course of his employment. The dispute was whether it arose out of the employment of the deceased. The Division Bench held at page 404 as follows:

"Now, it is clear that there must be a causal connection between the accident and the employment in order that the Court can say that the accident arose out of the employment of the deceased. It is equally clear that the

cause contemplated is the proximate cause and not any remote cause. The authorities have clearly laid down that if the employee in the course of his employment has to be in a particular place and by reason of his being in that particular place he has to face a peril and the accident is caused by reason of that peril which he has to face, then a causal connection is established between the accident and the employment. It is now well settled that the fact that the employee shares that peril with other members of the public is an irrelevant consideration. It is true that the peril which he faces must not be something personal to him; the peril must be incidental to his employment. It is also clear that he must not by his own act add to the peril or extend the peril. But if the peril which he faces has nothing to do with his own action or his own conduct, but it is a peril which would have been faced by any other employee or any other member of the public, then if the accident arises out of such peril, a causal connection is established between the employment and the accident. In this particular case what is established is that the employee while in the course of his employment found himself in a spot where he was assaulted and stabbed to death. He was in the place where he was murdered by reason of his employment. He would have been safely in his bed but for the fact that he had to join duty, and he had to pass this spot in order to join his duty. Therefore, the connection between the employment and accident is established. There is no evidence in this case that the employee in any way added to the peril. There is no evidence that he was stabbed because the assailant wanted to stab him and not anybody else."

Thereafter, at page 405-406, it was held as under:

"Once the peril is established, it is for the employer then to establish either that the peril was brought about by the employee himself, or that the peril was not a general peril but a peril personal to the employee. It is because of this that the authorities have made it clear that the causal connection between the accident and the employment which the applicant has to establish is not a remote or ultimate connection but a connection which is only proximate. Once that proximate connection is established the applicant has discharged the burden, and in this case the proximate connection between the employment and the injury is the fact that the deceased was at a particular spot in the course of his employment and it was at that spot that he was assaulted and done to death."

13. In Smt.Satiya v. Sub-Divisional Officer, Public Works Department 9 Buildings and Road), Narsimhapur [1974 (2) L.L.N. 204], a chowkidar in the Public Works Department was murdered while on duty. One of the questions that arose was whether his murder could be said to be an accident. Relying upon Nisbet, it was held that the murder was an unlooked for mishap or untoward event which was not expected or designed. The learned Judge held that word "accident" excludes the idea of wilful and intentional act but as explained in Nisbet, "the phrase ought to be held to include murder as it was an accidental happening so far as the workman was concerned.

14. In Varkeyachan v. Thomman [1979 (1) L.L.N. 477], was a case in which an employee engaged to do odd jobs dies as a result of stab injuries received while on duty. The Division Bench held the injury to be an accident

sustained by the deceased in the course of his employment.

15. The question that arose for consideration in United India Insurance Company Ltd. v. Philo [1996 (3) L.L.N. 116], was whether the killing of a workman while he was in the course of his employment, by an unknown person, can be considered as death caused as a result of an accident arising out of his employment? In this case the deceased was the driver of a taxi. He had taken some tourist out of town. He did not return from the tour and it was reported that he was killed and somebody stole the taxi. The Division Bench answered the question in the affirmative and held in Paras. 7 and 8 of the report:

"7.... But for the engagement as the driver of the taxi, the deceased would not have been in the place and in the situation where he was at the time when he was killed. The casual connection is complete and we have no doubt, in our mind to hold that the accident which has resulted in the death of the workman has arisen out of the employment.

8. The contention that the claimants have failed to discharge their burden to prove the causal relationship between the accident and the employment is only to be rejected in the light of the observations contained in Bhagubai v. General Manager, Central Railway [A.I.R. 1955 Bom. 105] (vide supra), with which we respectfully agree."

16. Parle Products, Ltd. v. Subir Mukherjee [2001 (I) L.L.J. 964], was a case in which an employee was travelling from Calcutta to Puri by train to attend an official conference. On the way, he was assaulted and thrown out of the Railway compartment. He sustained multiple injuries including a head injury and became

permanently physically disabled. The Division Bench held that there had been an accident, and that the accident had a causal connection with the employment inasmuch as the workman was travelling in the train to attend a conference organized by the employer in terms of a direction issued in that regard to him. Thus, it was held that the accident occurred in the course of his employment.

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21. No evidence was led by the appellant to suggest that the dominant purpose of Jeet Singh was to kill Sohan Lal and not to commit theft. Under the circumstances, this argument is not at all available to learned counsel for the appellant. (Emphasis supplied)"

***15**. In DTC v. Shakeela Parveen, 2014 ACJ 688 (Delhi High Court), the driver of a DTC bus was murdered on duty. The application for compensation was allowed by the Claims Tribunal which was challenged by DTC. G.P. Mittal, J., following Rita Devi (supra) and Kanshi Ram (supra), held the murder to be an accident and dismissed the appeal. Relevant portion of the said judgment is as under:-*

"11. The present case is squarely covered by the report of the Supreme Court in Rita Devi and a judgment of this Court in Kanshi Ram.

12. Turning to the facts of this case, admittedly the robbers wanted to rob the passengers. There was an alarm that pocket of a passenger has been picked. Possibly either there was some resistance or an objection to the act of robbery by the deceased which led to his stabbing by the robbers. Thus, the act of committing robbery was the felonious act intended by the robbers and the act of stabbing or causing death was originally not intended and the same was caused only in furtherance of

> *the act of robbery. Thus, there is no escape from the conclusion that the death of Zamil in the instant case was accidental arising out of the use of bus No. DL-1P-9753."*

13. Admittedly, the husband of petitioner No.1 was missing and subsequently he was found dead and in view of that the aforesaid two judgments in the cases of ***Rita Devi (supra) and United India Insurance Company Ltd. (supra)*** are helping the petitioners. Further the person, who was charged for murder has already been acquitted by learned Sessions Judge in S.T. No.278 of 2006 by judgment dated 28.05.2008. His acquittal is also proving that it was a case of accident.

14. In view of above facts, reasons and analysis, the impugned letter dated 20.02.2009 contained in Annexure-9 passed by Divisional Manager of National Insurance Company is hereby quashed.

15. Divisional Manager of National Insurance Company is hereby directed to pay the amount of Rs.1 lac to the petitioner No.1 within a period of six weeks from the date of receipt/production of copy of this Court.

16. Accordingly, this writ petition is allowed.

17. Pending I.As., if any, also disposed of.

(Sanjay Kumar Dwivedi, J.)

Dated 04.05.2026
Sangam/
A.F.R.