IN THE HIGH COURT OF JHARKHAND AT RANCHI

M.A. No. 12 of 2017

Divisional Manager, United India Insurance Co. Ltd. City Center, Sector-4, B.S. City, Bokaro through its Sr. D. M. Tapas Kumar Soha s/o Late S. N. Saha, resident of Lalpur, P.O. Ranchi, P.S. Lalpur, Dist. Ranchi ... Appellant

Versus

1. Udasi Devi w/p Late Dhanu Ghasi, r/o Amlo Halt, P.O. & P.S. Bermo, Dist. Bokaro.
2. Ganesh Prasad s/o Late Deb Ram, At + P.O. Gunjaridh, P.O. & P.S. Nawadih, Dist. Bokaro.
3. Bikram Kumar Mahato s/o Somanto Ram Mahato, r/o Village Baradih, P.O. Bhendra, P.S. Nawadih, Dist. Bokaro.
4. Pankaj Kumar Singh s/o Om Prakash Singh, s/o Late Gaya Prasad Singh, r/o G.M. Colony, Dhori, P.O., P.S. Bermo, Dist. Bokaro.
5. Om Prakash Singh, s/o Late Gaya Prasad Singh, r/o G.M. Colony, Dhori, P.O., P.S. Bermo, Dist. Bokaro. …Respondents

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CORAM: HON'BLE THE CHIEF JUSTICE

For Appellant: Mr Ashutosh Anand, Advocate
For Resp. Nos.2 & 3: Mr. Kumar Baibhav, Advocate
For Resp. Nos.4 & 5: Mr Atanu Banerjee, Advocate
Mr Aditya Banerjee, Advocate

Reserved on: 29.08.2026 **Pronounced on: 02.09.2026**

1. Heard the learned counsel for the parties.

2. This Miscellaneous Appeal by the insurer challenges the Judgment and Award dated 20.07.2016 passed by the Claims Tribunal, Bokaro, in T.M.V. Claim Case No. 85 of 2013, whereby the appellant-insurer, United India Insurance Co. Ltd., was directed to pay a compensation of Rs.5,59,000/- to the claimant, with interest at the rate of 9% per annum from the date of the claim application, i.e. 06.09.2013, till payment, within four months from the date of

the award, and penal interest at the rate of 11% per annum in the event of default.

3. The learned counsel for the appellant has confined the challenge to the impugned award to two grounds: first, that in view of the inconsistent statements of C.W.-2, it has not been proved that the deceased was driving Santro Car No.JH-09P-4929 at the time of the accident; and second, that the learned Tribunal applied an incorrect test and procedure in determining the compensation.

4. On the other hand, the learned counsel for the respondent-claimant has prayed for enhancement of the compensation, submitting that the learned Tribunal has not properly assessed the income of the deceased. It has further been submitted that, even in the absence of a cross-appeal, this Court, in exercise of its appellate jurisdiction, can enhance the compensation in view of the principles laid down by the Hon'ble Supreme Court.

5. In view of the rival submissions and the material available on record, the following points arise for determination:

I. Whether the learned Tribunal erred in holding that the deceased Pintu Ghasi was driving Santro Car No. JH-09P-4929 at the time of the accident?

II. Whether the compensation awarded by the learned Tribunal is just and reasonable and, if not, to what extent it requires enhancement?

6. Regarding the first point of determination, the occurrence of the accident is an admitted fact. On 23.01.2013, at about 9:30 a.m. near Turioghora on the Bermo–Chandrapura road, Hywa Truck No. JH-09H-2642 struck Santro Car No. JH-09P-4929. The collision resulted in the death of Pintu Ghasi.

7. This incident led to the registration of Chandrapura P.S. Case No. 07 of 2013 (Ext. 01). The investigation culminated in the submission of a charge-sheet (Ext. 02) against the driver of the Hywa truck.

8. Learned Counsel for the Appellant relies upon the cross-examination of C.W. 2, Vishwanath Turi, by the counsel for the vehicle owner. In his cross-examination, C.W. 2 gave shifting/changing statements regarding the exact position of the deceased. He initially stated that Pintu Ghasi was standing on the side of the road. He then stated that he was standing on the left side of the road. Later, he stated that Pintu was sitting in the vehicle, and subsequently that the Santro was parked on the side of the road with Pintu seated inside.

9. On a bare perusal, these statements appear inconsistent. They reflect confusion or a lack of precision as to whether the deceased was driving, standing outside, or seated in the car when the impact occurred.

10. However, these discrepancies do not displace the remaining evidence on record. In his examination-in-chief, C.W. 2

explicitly stated that the deceased was driving the Santro. In cross-examination by the insurer, he denied the suggestion that Pankaj Kumar Singh was in the driving seat. He also denied that Pintu was merely washing cars. Furthermore, C.W.1 consistently maintained that her son was driving the vehicle. The FIR and the charge-sheet also corroborate the involvement of the Hywa truck and the presence of the deceased inside the Santro.

11. The Tribunal below was justified in appreciating the evidence as a whole. In this regard, it is pertinent to state that isolated and mutually inconsistent answers extracted during cross-examination cannot override the fundamental weight of the evidence in totality.

12. At this stage, it is apposite for this Court to refer to the recent decision of the Hon'ble Supreme Court in the case of **Raj Kumar Das (D) Thr. Lrs. v. National Insurance Co. Ltd., reported in 2026 INSC 541.** The Hon'ble SC observed that claims under the Motor Vehicles Act must be assessed on cumulative probabilities, holding that minor discrepancies in evidence do not render an occurrence improbable when supported by police records and a consistent documentary narrative. The Hon'ble Court cautioned against applying the strict standard of proof beyond reasonable doubt to beneficial social welfare legislation.

13. This approach is further reinforced by the judgment of the **Hon'ble Supreme Court** in **Reena v. The Managing Director, Karnataka State Road Transport Corporation, 2026 INSC 889**. In the said case, the Hon'ble Court held that while material collected during a police investigation carries evidentiary value, it cannot be treated as conclusive proof on its own. The Tribunal must independently evaluate the entire evidence on record on the touchstone of preponderance of probabilities.

14. Applying this principle, the minor variations in C.W.-2's cross-examination cannot overturn the established fact of the accident. C.W.-2 may have stumbled on whether Pintu Ghasi was sitting inside the Santro, standing beside it, or preparing to drive. However, such minor contradictions in the testimony of a bystander describing a sudden collision cannot erase the admitted fact on record that the Hywa truck struck the Santro car, and Pintu Ghasi died in that impact. Additionally, when C.W.-2's core testimony is weighed alongside the FIR, the police charge-sheet against the Hywa driver, and the mother's consistent evidence, the probability heavily favours the claimants.

15. Moreover, there is a fundamental flaw in the appellant-insurer's argument. In its written statement, the insurer specifically pleaded that the deceased was driving the Santro without a valid driving licence, seeking to avoid

liability on that premise. Yet, during the cross-examination of C.W.-2, the insurer put forward a contradictory suggestion that it was Pankaj Singh, and not the deceased, was driving the vehicle; a suggestion that C.W.-2 categorically denied.

16. The plea that the deceased drove without a licence and the contradictory stance that he was not driving at all are mutually incompatible. They cannot co-exist at any stage of the proceedings.. In any event, both cannot be pressed together, and certainly not in that inconsistent combination at the appellate stage.

17. Accordingly, considering the totality of the material placed on record, the finding of the Tribunal on this aspect does not warrant interference.

18. Resultantly, Point No. (i) is answered against the appellant.

19. Regarding the issue of just compensation, the record reveals that the learned Tribunal assessed the deceased's monthly income at Rs. 3,000/-. In doing so, it noted the absence of an income certificate. The Tribunal preferred the investigation report and statements produced by the insurer (Exts. A to D) over the oral testimony of C.W.-1 and C.W.-2, who had stated that the deceased was earning Rs. 9,000/- per month as a driver.

20. Ext. A, the investigation report, states that the deceased washed vehicles on the main road at Rs. 50/- per vehicle. It also records that he worked at the residence of Sri Om

Prakash, the owner of the Santro, for a monthly income of Rs. 6,500/-. Ext. B, the statement of the claimant recorded by the investigator, similarly records that the deceased was earning Rs. 6,500/- per month from his work at the house of Om Prakash Singh. Exts. C and D, being the statements of Pankaj Kumar Singh and Om Prakash Singh, refer to his work of washing vehicles.

21. This evidence on record, as adduced by the Appellant insurer, presents a picture slightly different from the claim that the deceased was earning Rs. 9,000/- per month exclusively as a full-time driver. However, that discrepancy does not justify reducing his assessed income to Rs. 3,000/- per month. In any situation whatsoever, the evidence indicates informal employment. A person engaged with a household may undertake driving alongside other domestic duties. Such informal arrangements are rarely supported by written records or income certificates. They are, however, exceedingly common in a developing country like India.

22. In this context, it is pertinent to note that according to the National Accounts Statistics, the informal sector contributed nearly 45% to India's total GDP in FY 2022–23. Demanding documentary proof for such informal work engagements runs counter to the reality of how this vast sector operates.

23. Significantly, the insurer’s own investigation confirms that the deceased worked at the vehicle owner's house for Rs.

6,500/- per month, in addition to washing vehicles. C.W.-1 and C.W.-2 claimed an income of Rs. 9,000/- per month. Even if their oral evidence contains some exaggeration, the income of the deceased cannot reasonably be restricted to Rs. 3,000/- per month.

24. In the case of **Sri Ramachandrappa v. Manager, Royal Sundaram Alliance Insurance Co. Ltd., (2011) 13 SCC 236**, the Hon'ble Supreme Court observed that where documentary evidence is incomplete, the court may assess income based on reasonable guesswork, keeping in mind ground realities. However, such assessment must remain grounded in the record and cannot be arbitrary.

25. This principle directly applies here. The deceased was a young man earning his livelihood through informal labor. The evidence produced by the insurer itself demonstrates that his earnings exceeded the figure fixed by the learned Tribunal. At the same time, the claimants have not produced definitive proof of the full Rs. 9,000/- claimed.

26. In the recent case of **Oriental Insurance Co. Ltd. v. Kalu Ram, 2026 INSC 653**, the Hon'ble Supreme Court reaffirmed that compensation cannot be mechanically restricted to the lowest figure on record when the surrounding circumstances indicate higher earning capacity. The Court cautioned against speculative assumptions of

future success, holding that income must be assessed on a balanced view of the evidence.

27. Applying these settled principles and considering the investigation material alongside the oral evidence of C.W.-1 and C.W.-2, this Court considers a monthly income of Rs. 6,000/- to be fair and reasonable. This figure reflects a balanced assessment between the Rs. 3,000/- fixed by the Tribunal and the higher amount claimed by the witnesses.

28. There is no dispute that the deceased was about 20 years of age at the time of the accident. He was unmarried. 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. 1,00,800/-.

29. Since the deceased was 20 years of age, the appropriate multiplier is 18 in terms of the principles laid down in **Sarla Verma v. DTC, (2009) 6 SCC 121.** The Tribunal below had applied a multiplier of 16 by reference to the Second Schedule to S. 163-A. Such approach cannot be sustained in a claim under Section 166 of the Motor Vehicles Act. Being a bachelor, 50% of the income is required to be deducted towards his personal and living expenses, in view of the principles laid down by the Hon'ble Supreme Court in **Pranay Sethi (supra).**

30. The loss of dependency is accordingly calculated as follows:

Rs. 1,00,800/- − 50% = Rs. 50,400/-

Rs. 50,400/- × 18 = Rs. 9,07,200/-

31. The claimant is, therefore, entitled to Rs. 9,07,200/- towards loss of dependency.

32. As regards the conventional heads, compensation under the same is to be determined 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.**

33. The claimant shall accordingly be entitled to Rs. 40,000/- towards consortium to the mother, Rs. 15,000/- towards funeral expenses and Rs. 15,000/- towards loss of estate.

34. The total compensation is accordingly determined at Rs. 9,77,200/-, which is rounded off to Rs. 9,77,000/-. The interim compensation of Rs. 50,000/- already paid shall stand adjusted against the amount so determined.

35. 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.

36. However, the ld. advocate for the appellant-insurer submitted, relying upon **Ranjana Prakash v. Divisional**

Manager, (2011) 14 SCC 639, that this Court cannot enhance the compensation in an appeal filed by the insurer seeking reduction of the award, and that the claimants are not entitled to seek enhancement in the absence of a cross-appeal or cross-objection.

37. The contention of the learned counsel merits consideration. **In Ranjana Prakash (supra)**, the Hon'ble Supreme Court held that, in an appeal preferred by the insurer, the compensation could not be enhanced in the absence of a cross-appeal or cross-objection by the claimant. The said decision, therefore, does lend support to the proposition advanced on behalf of the appellant-insurer.

38. Nevertheless, the Hon'ble Supreme Court considered the matter differently in a later decision. In **Surekha v. Santosh, (2021) 16 SCC 467,** the High Court of Bombay had declined enhancement for want of a cross-objection, expressly relying upon **Ranjana Prakash (supra)**. The Hon'ble Supreme Court did not accept that approach. It held that the Motor Vehicles Act casts a duty to determine just compensation; that an appeal against the Tribunal's award is a continuation of those proceedings; and that the appellate court may award just compensation even in the absence of a formal appeal or cross-objection.

39. Following **Surekha (supra)**, this Court is not precluded from examining whether the compensation awarded is just and, if it is not, from enhancing it to the extent indicated above.

40. More-over, 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.

41. The present case is one such case. The deceased was a young person engaged in informal work and the respondent-claimant is his legal representative.

42. The learned Tribunal, while considering the occupation of the deceased, assessed his monthly income at Rs. 3,000/- without adequately appreciating the evidence available on record, including the investigation material produced by the insurer itself. The resulting compensation was consequently determined without due regard to the evidence and the principles governing the assessment of just compensation.

43. Having regard to these circumstances, this Court considers the present case to be an appropriate one for exercise of its

appellate jurisdiction under Order XLI Rule 33 of the Code of Civil Procedure to correct the inadequacy in the assessment and ensure that the claimants receive the just compensation to which they are entitled.

44. The findings of the learned Tribunal on the remaining issues have not been pressed in the present appeal. Those findings, therefore, remain undisturbed.

45. Point No. (ii) is accordingly answered by holding that the compensation awarded by the learned Tribunal is not just and reasonable and requires enhancement to the extent indicated hereinabove.

46. Insofar as the rate of interest is concerned, the learned Tribunal awarded interest at the rate of 9% per annum from the date of the claim application, i.e. 06.09.2013, till payment, which was to be made within four months from the date of the award, with penal interest at the rate of 11% per annum in the event of default.

47. It is pertinent to note that the learned Tribunal itself awarded the said rate of 11%. The learned advocate for the appellant has submitted that such penal rate of interest could not have been imposed. In this regard, reliance may be placed upon the dictum of the Hon'ble Supreme Court in **Shishu Pal @ Shish Ram v. Surjeet, 2026 INSC 634,** wherein it was held that the mere nomenclature of a rate of interest as "penal" does not, by itself, render such rate impermissible.

48. It is also well settled that an appellate Court, while examining the correctness of the compensation awarded, does not ordinarily interfere with the rate of interest fixed by the Tribunal unless the same is shown to be arbitrary, excessive or otherwise contrary to law.

49. The Hon'ble Supreme Court in **Shishu Pal @ Shish Ram (supra)**, while enhancing the compensation, also left a similarly graded structure of interest undisturbed.

50. Accordingly, the rates of interest awarded by the learned Tribunal shall remain unchanged.

51. The appeal is dismissed. The compensation is enhanced to Rs. 9,77,000/-. The interim compensation of Rs. 50,000/- already paid and the statutory amount, if deposited before this Court, shall be adjusted against the total compensation so determined.

52. The appellant-Insurance Company shall deposit the enhanced amount before the learned Tribunal within eight weeks from today, after due intimation to the learned counsel for the claimant. Upon such deposit, the learned Tribunal shall permit the claimant to withdraw the amount in accordance with law.

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

54. There shall be no order as to costs. Pending interlocutory applications, if any, stand disposed of. Interlocutory applications, if any, will not survive and are disposed of.

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

02.09.2026
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