IN THE HIGH COURT OF JHARKHAND AT RANCHI

M.A. No. 348 of 2017

1. Tarabati Devi, wife of Late Kalicharan Tanti,
2. Keshav Tanti, son of Late Kalicharan Tanti,
3. Manoj Tanti, son of Late Kalicharan Tanti,
4. Gita Tanti, daughter of Late Kalicharan Tanti,

   All are resident of Village- Samuraai, P.O.- Barabamboo, P.S.- Kharsawan, District-Seraikella-Kharsawan.

... Claimants/Applicants/Appellants

Versus

1. Md. Seikh Hussain, son of Seikh Khalil, resident of Holding No.-27, Kadamdiha, Kharsawan, P.O. and P.S.-Kharsawan, District-Seraikella-Kharsawan.
2. Md. Nuruddin Rahman, son of Abdul Rahman, resident of Kadamdiha, Kharsawan, P.O. and P.S.-Kharsawan, District-Seraikella-Kharsawan.
3. National Insurance Company Limited, registered office at Middleton Street, Kolkata having its Divisional Office at Hindustan Building Main Road Bistupur, P.O. and P.S.-Bistupur, District-Singhbhum (East).

... Opposite Parties/Respondents

CORAM: HON'BLE THE CHIEF JUSTICE

For the Appellant: Mr R.C.P. Sah, Advocate
For Resp. Nos.1&2: Mr Rajesh Kumar Mishra, Advocate
For Resp. No.3/Ins. Co.: Mr Niraj Nayan Mishra, Advocate

09/Dated: 30.10.2026

1. Heard learned counsel for the parties.

2. This appeal challenges the judgment and award dated 28th March 2017 in Compensation Case No. 01 of 2009 passed by the Tribunal at Seraikella dismissing the appellants' claim for compensation due to the death of Kalicharan Tanti in a vehicular accident on 27th June 2008.

3. Learned counsel for the appellants submitted that no less than five witnesses were examined on behalf of the claimants and the claim could not have been dismissed because the FIR and the charge-sheet against the driver of the offending vehicle did not refer to Kalicharan and his demise in the accident. He further submitted that the fact that no post-mortem was carried out was also not a factor to disbelieve the claimants' version.

4. Learned counsel for the appellants submitted that the Tribunal failed to appreciate that the standard of proof in such matters is that of 'preponderance of probabilities' and not proof beyond reasonable doubt.

5. Learned counsel for the appellants submitted that Kalicharan was 51 years old at the time of the accident and was earning Rs. 4100/- per month as a worker in a Grocery store. He therefore submitted that suitable compensation, in terms of law, was liable to be awarded to the claimants.

6. Mr Niraj Nayan Mishra, learned counsel for the respondent-Insurance Company, defended the impugned award based on the reasoning reflected therein. He submitted that there was no evidence about Kalicharan being the passenger in the alleged offending vehicle or dying due to the injuries from the vehicular accident involving the alleged offending vehicle.

7. Mr Mishra submitted that the Tribunal considered the evidence in detail and concluded that several factors meant the claimants' case

did not deserve to be believed. He submitted that the absence of any reference to Kalicharan's death in the FIR or charge-sheet was a very important circumstance that the Tribunal rightly took into consideration.

8. Mr Mishra submitted that since this was an accident case, a post-mortem was the norm. The fact that there was no post-mortem conducted shows that Kalicharan's death had nothing to do with the vehicular accident.

9. Mr Mishra submitted that unless the primary fact of Kalicharan's death having any nexus with a vehicular accident is established, no compensation can be paid to the claimants.

10. For these reasons, Mr Mishra submitted that this appeal should be dismissed.

11. The rival contentions now fall for determination.

12. In this case, although it was the Tribunal's duty to determine all the issues, it has taken a shortcut by avoiding that determination. After concluding that the claimants' case was that Kalicharan was injured and ultimately died in a vehicular accident, the Tribunal has failed to determine the other issues, including the issue of what would be the just compensation. This is not quite proper.

13. Accordingly, in this appeal, two points arise for determination:-

(a) Whether the injuries suffered and Kalicharan's eventual death would be attributed to the accident that occurred on

27th June 2008 due to the driver's negligence involving Tempo bearing Registration No. JH05U-2051?

(b) If yes, what would be the just compensation in this case?

14. Insofar as the first point is concerned, the claimants have produced overwhelming evidence and, based upon the same, this point will have to be determined in favour of the claimants.

15. The Tribunal treated the matter as a criminal case, where the standard of proof is "proof beyond reasonable doubt". The Tribunal failed to recognise that it was dealing with a summary claim under beneficial legislation, where the accepted standard of proof is 'preponderance of probabilities.' The Tribunal did refer to the above position in law but failed to adhere to it when disposing of this matter.

16. In this case, AW.1 categorically deposed that Kalicharan was a passenger in the offending vehicle and that he suffered internal injuries in the accident caused by the rash and negligent driving of the driver of the offending vehicle near Gondpur More. The internal injuries led to his paralysis, and finally, Kalicharan died on 12.11.2008 at his house. In between, he was treated at various hospitals.

17. From the documents produced on record, there is evidence about Kalicharan sustaining a sharp injury on the head and a sharp wound on the back of his right mid-thigh. On the specious plea that

no post-mortem was conducted on Kalicharan, this evidence of AW.1 could not have been rejected.

18. The other witnesses have deposed that after the accident Kalicharan was taken to several hospitals. There is evidence that he died on 12.11.2008, i.e. almost five months after the date of the accident, and therefore, no need must have been felt for the conduct of any post-mortem.

19. The witnesses, including AW.5 - the son of Kalicharan, had deposed that due to ignorance, no complaint was filed by him at the Police Station. However, this witness had deposed about the various hospitals that they took Kalicharan to for treatment. AW. 5's evidence is quite detailed, and the Tribunal was not entirely justified in picking holes in it. Similarly, AW.4, the hospital's Compounder, has deposed in favour of the claimants' case. His evidence has likewise been rejected on flimsy grounds.

20. AW.3, who was the informant in this matter, explained that he could not give Kalicharan's name because AW.3 was from a different village and that after the accident Kalicharan was rendered unconscious.

21. Considering the above evidence and the virtual absence of any credible evidence on behalf of the defence, the Tribunal was not justified in concluding that Kalicharan was not travelling in the offending vehicle or that Kalicharan's death had no nexus with the accident that occurred on 27th of June 2008. In all cases, it is not

necessary that the death should take place immediately after the accident. What is relevant is that a serious injury was suffered due to rash and negligent driving of a motor vehicle, and it is that injury which eventually led to the demise. The oral and documentary evidence on record is more than sufficient to establish this, and therefore, the Tribunal was not justified in rejecting the claim petition.

22. Full explanation has been offered by the witnesses as to why Kalicharan's name is not reflected in the FIR or in the charge-sheet. No one's case is that Kalicharan was the accused in the matter. Therefore, on such grounds, the claimants' case could not have been rejected. The first point for determination is therefore answered in favour of the appellants.

23. Insofar as the second point for determination is concerned, there is evidence that the deceased was earning Rs. 4100/- from his employment at a grocery store. There is also evidence that he was 51 years old at the time of the accident. Considering this position, a 10% addition is warranted towards future prospects.

24. The multiplier in terms of **Sarla Verma v. DTC**, (2009) 6 SCC 121, would be 11, but before this is applied, a deduction of 1/4th from Kalicharan's income will have to be made towards the amount that he would have spent on himself. Since there were originally five claimants, each of them would be entitled to compensation towards consortium @ Rs. 40,000/-. Thus, the total

compensation towards consortium would be Rs. 2,00,000/-, though one of the claimants has since expired.

25. Similarly, the claimants would be entitled to Rs. 15,000/- towards funeral expenses and another Rs. 15,000/- towards loss of estate. These computations are in terms of **Sarla Verma (supra).**

26. Accordingly, the total compensation in this case would be Rs. 6,76,490/-. This would constitute 'just compensation' in this matter. In addition, the claimants would be entitled to interest on this compensation amount at 6% per annum from the date of institution of the claim petition until actual payment.

27. The appeal is consequently allowed. The claim petition filed by the appellants is allowed, and they are awarded compensation of Rs. 6,76,490/- together with interest thereon @ 6% per annum from the date of institution of the claim petition till actual payment.

28. The respondent-Insurance Company is directed to deposit the compensation amount in this Court within two months from today after due intimation to the learned counsel for the appellants.

29. Upon deposit, the Registry should then transfer this compensation amount to the appellants in the following proportions:-

(a) Tarabani Devi, wife of Late Kalicharan Tanti – 40%
(b) Keshav Tanti, son of Late Kalicharan Tanti – 20%
(c) Manoj Tanti, son of Late Kalicharan Tanti – 20%
(d) Gita Tanti, daughter of Late Kalicharan Tanti – 20%

30. The appellants should furnish their identity and bank details to the Registry, and thereupon the Registry should transfer the amounts into their bank accounts. Under no circumstances should the transfers be otherwise than through regular banking channels.

31. The appeal is allowed in the above terms without any order for costs.

32. IAs, if pending are also disposed of.

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

October 30, 2026

N.A.F.R.

Manoj/Sharda/Cp.2

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