IN THE HIGH COURT OF JHARKHAND AT RANCHI

M.A. No. 169 of 2017

1. Manager, TATA AIG General Insurance Co. Ltd., having its office at Bistupur, Jamshedpur P.O. Bistupur P.S. Bistupur, District. Jharkhand
2. Director, TATA AIG General Insurance Co. Ltd., having its office at 15th Floor, Tower A, Peninsula Business Park Marg, P.O.& PS. Lower Parel, Mumbai – 400013

Both represented through its Chief Manager - Claims, Jayanta Roy s/o Dr D.K. Roy, having office at Constantia Office Complex, 2nd Floor, 11, Dr U.N. Brahmachari Street, Kolkata - 700017, P.O. Circus Avenue P.S. Shakespeare Sarani, Dist. Kolkata ... Appellants

Versus

1. Binati Devi w/o Bisheshwar Mahto,
2. Rajendra Kumar Mahato s/o Bisheshwar Mahato,
3. Amit Kumar Mahato s/o Bisheshwar Mahato All r/o Village Barghutu, P.O. Sadam, P.S. Gola, Dist. Ramgar, Nos. 1 & 2 at present r/o Govind Market, Balidih, P.O., P.S. Balidih, Dist. Bokaro.
4. Dinu Kumar s/o Banshi Kumar, r/o Dhori Sharda Colony, Phusro Bazar, P.O.& P.S. Chandrapura, Dist. Bokaro at present r/o Bye Pass Road, Chas, P.O.,P.S. Chas, Dist. Bokaro.
5. Fitkuri Karmali s/o Prayag Karmali, r/o Baniya Tola, Kundra Kalan, P.O., P.S. Dist. Ramgarh. … Respondents

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CORAM: HON'BLE THE CHIEF JUSTICE

For Appellants: Mr Ashutosh Anand, Advocate
Mr Dipak Banerjee, Advocate

For Resp. Nos.2 to 4: Mr. Awanish Ranjan Mishra, Advocate
Mr Ujjwal Jaipuriar, Advocate
Mr Animesh Kumar Bhaiya, Advocate

For Resp. No. 5: Dr (Mrs) Vandana Singh, Advocate
Mr Vivek Kumar Sharma, Advocate
Ms Aliza, Advocate

Reserved on: 29.08.2026 **Pronounced on: 01.09.2026**

1. Heard the learned counsel for the parties.

2. This Miscellaneous Appeal by the insurer challenges the Judgment and Award dated 15.12.2016 passed by the learned Claims Tribunal, Bokaro, in T.M.V. Claim Case No. 88 of 2015, whereby the appellant insurer, TATA AIG General Insurance Co. Ltd., was directed to pay compensation of Rs. 7,07,000/- to the claimants,

with an interest at the rate of 9% per annum from the date of the claim application, i.e. 06.08.2015, 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 the ground that the compensation has been erroneously determined on an incorrect application of the principles of law and the award of penal interest is erroneous. It has also been submitted that the appellant accepts the Tribunal's findings on the remaining issues.

4. On the other hand, the learned counsel for the respondents-claimants has prayed for enhancement of the compensation, submitting that the Tribunal has not properly assessed the deceased's income. 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 in several decisions.

5. In view of the limited challenge raised before this Court, the primary point that arises for determination is whether the compensation awarded by the learned Tribunal is just and reasonable and, if not, to what extent it requires enhancement.

6. The records reveal that the learned Tribunal assessed the deceased's monthly income at Rs. 3,000/-. In doing so, the Tribunal primarily considered that Exhibit 3 had been issued by an

unregistered concern. It also noticed that Sanjay Kumar, who was stated to have issued the said document, had not been examined. The Tribunal further observed that no documentary evidence established the income earned by the deceased from tuition.

7. On the above-mentioned basis, the Tribunal applied a multiplier of 16 and, after awarding compensation under the conventional heads, determined the compensation at Rs. 7,07,000/-.

8. However, having perused the evidence on record, this Court is of the opinion that the approach adopted by the learned Tribunal in assessing the income does not appear to be legally justified.

9. In the case before us, the deceased was a young person pursuing his studies and was also engaged in part-time work and tuition. In the societal set-up of our country, it is not a misnomer to state that informal tuition, particularly when undertaken by an individual on a limited scale, is not ordinarily accompanied by formal accounts, receipts or other documentary records. To insist upon such evidence from the legal representatives of a young student would be to require a form of documentary proof which the very nature of such work may not ordinarily generate.

10. Moreover, Exhibit 3 is an income certificate issued by the Technical and Engineering Centre, which is described on the face of the document as a firm, recording payment of Rs. 4,500/- per month to the deceased as a draftsman. The document cannot be discarded merely because the concern has not been shown to be a registered company. The question whether the concern was

formally registered is distinct from the question whether the deceased was working there and receiving the amount stated in the certificate. Significantly, the issue of the registration of the concern was not put in issue before the learned Tribunal in the way it is sought to be urged now.

11. In addition, the record also contains a gate pass (X/7) issued by MECON Limited, Ranchi, in favour of the deceased. While the gate pass by itself may not establish the precise nature or quantum of his earnings, it is nevertheless a relevant surrounding circumstance indicating his association with MECON, which is a Central PSU under the Ministry of Steel, Govt. of India. The educational documents on record, including the I.Sc. Certificate and the College Leaving Certificate, further establish that the deceased was pursuing his studies while simultaneously engaging himself in part-time work.

12. Lastly, the oral evidence on record also bears on this issue. C.W.1 and C.W.2 have deposed that the deceased was earning approximately Rs. 4,500/- per month from tuition and a similar amount from his part-time work. Even if the said evidence is not accepted at its highest and some allowance is made for the possibility of exaggeration, there remains sufficient material on record to hold that the income of the deceased could not reasonably have been confined to Rs. 3,000/- per month.

13. In **Sri Ramachandrappa v. Manager, Royal Sundaram Alliance Insurance Company Limited, (2011) 13 SCC 236,** the Hon'ble

Supreme Court recognised that where the supporting material is incomplete, the income may have to be assessed on the basis of reasonable guesswork, having regard to the facts and circumstances of the case and the ground realities of the occupation. The assessment, however, cannot be arbitrary or divorced from the evidence available on record.

14. The same principle assumes significance in the present case. The deceased was a young person who had passed I.Sc., was pursuing further studies (B.Sc.), was engaged in part-time work and was also stated to be giving tuition.

15. In the recent case of **Oriental Insurance Company Limited v. Kalu Ram, 2026 INSC 653**, the Hon'ble Supreme Court, while considering a claim arising from the death of a young Chartered Accountancy student, recognised that a court assessing compensation need not confine itself to the lowest income figure proved on record where the material available discloses other corroborating circumstances, notwithstanding that the amount actually received by the deceased at the relevant time was modest.

16. The Hon'ble Court was, however, equally emphatic that compensation cannot be founded on an assumption of assured future professional success, or on income benchmarks drawn from other, unrelated individuals who may have achieved such success. Applying this principle to the facts at hand, the income of the deceased is required to be assessed on the strength of what is borne out by the evidence on record.

17. In the present case, the evidence regarding income from tuition and part-time work, Exhibit 3 recording payment of Rs. 4,500/- per month as a draftsman, the MECON gate pass and the educational credentials of the deceased, when considered cumulatively, provide a reasonable basis for assessing his income at a figure higher than that adopted by the learned Tribunal. At the same time, in the absence of comprehensive documentary evidence regarding the entire income claimed, it would not be appropriate to accept the oral evidence at its highest.

18. Having regard to the evidence, including the nature of the deceased's occupation, the evidence regarding his part-time work and tuition, his educational qualifications and the surrounding circumstances, this Court considers a monthly income of Rs.6,000/- to be a fair and reasonable assessment. The said figure also represents a measured assessment between the income of Rs.3,000/- adopted by the learned Tribunal and the higher income spoken to by the witnesses.

19. There was no dispute that the deceased was about 23 years of age at the time of the accident. As the deceased was self-employed, 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/-.

20. Since the deceased was 23 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 Section 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)**. 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/-

21. The claimants are, therefore, entitled to Rs. 09,07,200/- towards loss of dependency.

22. As regards the conventional heads, a separate award under the head of loss of love and affection cannot be made in addition to consortium. Compensation under the conventional heads 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.**

23. The claimants shall accordingly be entitled to compensation under the conventional heads as follows: Rs. 1,60,000/- towards consortium at the rate of Rs. 40,000/- to each of the four dependants cum claimants, Rs. 15,000/- towards funeral expenses and Rs. 15,000/- towards loss of estate. The fact that the entire family was dependent upon the income of the deceased son, as

stated by C.W.-1, was neither challenged before the Tribunal nor before this Court.

24. The total compensation is accordingly determined at Rs. 10,97,200/-, which is rounded off to Rs. 10,98,000/-.

25. 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.

26. However, the learned counsel 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.

27. 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.

28. 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.

29. 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.

30. 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.

31. The present case is one such case. The deceased was a self-employed student, and the respondents-claimants are his legal representatives. The learned Tribunal, while accepting the deceased's occupation, assessed his monthly income at Rs. 3,000/- without adequately considering the evidence available on record

relating to his income from part-time work and tuition. The resulting compensation was, therefore, determined without due regard to the material evidence and the principles governing the assessment of just compensation.

32. 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.

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

34. The point for determination 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.

35. The appeal is dismissed. But the compensation is enhanced to Rs.10,98,000/-. 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.

36. 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. 06.08.2015, 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.

37. It is pertinent to note that the said "penal" rate of 11% was inserted by the learned Tribunal itself. The learned counsel for the appellant argued that a penal rate can't be imposed in matters of this nature. In this regard, the dictum of the **Shishu Pal @ Shish Ram v. Surjeet, 2026 INSC 634,** can be relied upon to validly state that mere nomenclature of a rate of interest as "penal" does not, by itself, render it impermissible.

38. Additionally, it is pertinent to state that it is 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.

39. Moreover, the Hon'ble Supreme Court in **Shishu Pal @ Shish Ram (Supra)**, while enhancing the compensation awarded, left a similarly graded interest structure (7.5%, escalating to 9% and then 12% on default) fixed by the court below undisturbed, without disturbing its structure or nomenclature, even while substantially enhancing the underlying compensation.

40. Accordingly so, the interest rates as awarded by the Tribunal remain unchanged.

41. The entire compensation, after adjustment of the interim compensation and the statutory amount, if deposited, shall be apportioned equally amongst the four claimants, namely,

Bisheshwar Mahto, Binati Devi, Rajendra Kumar Mahto @ Rajendra Kumar Mahato and Amit Kumar Mahto @ Amit Kumar Mahato.

42. 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 claimants. Upon such deposit, the learned Tribunal shall permit the claimants to withdraw the amount in accordance with law.

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

44. There shall be no order as to costs. Pending interlocutory applications, if any, stand disposed of.

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

01.09.2026
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