(2026: JHHC:28981)

IN THE HIGH COURT OF JHARKHAND AT RANCHI

M.A. No. 731 of 2018

The Divisional Manager, National Insurance Company Limited, Divisional Office, City Centre, P.O. & P.S. Sector- IV, Bokaro Steel City, District- Bokaro, represented through its Jharkhand Legal Cell, Kutchery Road, P.O. Ranchi University, P.S. Kotwali, District- Ranchi. (Insurer of Marshal No. BR-20E 7509).

... Opp. Party No.5/Defendant No.5/Appellant

Versus

1. Mira Sahu, Wife of Late Rajendra Prasad @Rajendra Prasad Sah.
2. Priyanka, Daughter of Late Rajendra Prasad @Rajendra Prasad Sah.

Both Resident of Qr. No. 2-098, Sector- II/B, P.O. & P.S. B.S. City, District- Bokaro.

……. Applicants/Plaintiffs/Respondents

3. Yogendra Roy, Son of Late B. Ray, Resident of At- Tara Nagar, P.O. & P.S. Chas, District- Bokaro. (Owner of the Truck No. BR-20G-7006).
4. Phoolchand Manjhi, Son of Late Sahab Ram Manjhi, Resident of At Chargi, P.O. Jainamore, P.S. Jaridih, District- Bokaro. (Driver of the Truck No. BR-20G-7006).
5. Habu Lal Gorain, Son of Late Lalu Gorain, Resident of Main Road, Chas, P.O. & P.S. Chas, District- Bokaro (Owner of Marshal No. BR-20E 7509).
6. Prabhash Mahto, Son of Niranjan Mahto, Resident of Village & P.O. Belkuri, P.S. & District- Purulia (West Bengal) (Driver of Marshal No. BR-20E 7509).

... Opp. Parties/Defendants/Respondents

CORAM: HON'BLE THE CHIEF JUSTICE

For the Appellant: Mr Manish Kumar, Advocate
For Resp. Nos.1&2: Mr Sankalp Goswami, Advocate
Mr Kushagra Reshu, Advocate
For Resp. No.5: Mr Shubham Mishra, Advocate
Mr Gyandev Raj, Advocate

08/Dated: 25.09.2026
I.A. No. 10809 of 2018

1. This I.A. seeks condonation of delay of 13 days in filing the accompanying appeal.

2. Mr Manish Kumar states that all the respondents have been served.

3. Considering the reasons set out in the I.A. and the fact that the delay is not inordinate, the same is condoned.

4. I.A. No. 10809 of 2018 is disposed of.

M.A. No. 731 of 2018

5. Heard Mr Manish Kumar for the appellant and Mr Sankalp Goswami for the respondent claimants.

6. With the consent of the learned counsel for the parties and considering the only contention advanced on behalf of the appellant-Insurance Company, the appeal is taken up for final disposal.

7. Mr Manish Kumar submitted that in this case, the accident was between a Marshal Jeep bearing registration no. BR-20E-7509 and a vehicle bearing registration no. BR-20G-7006. He submitted that, as per the FIR and charge sheet filed, the accident occurred due to the rash and negligent driving of the truck bearing registration no. BR-20G-7006. He submitted that this truck was never insured with the appellant-Insurance Company and therefore, there is no question of foisting any liability on the appellant-Insurance Company and/or making a pay and recovery order.

8. Mr Manish Kumar submitted that the appellant had also insured the Marshal Jeep bearing registration no. BR-20E-7509 but this insurance policy was an act only insurance policy. Therefore, even

under the said policy, there was no question of foisting any liability on the appellant-Insurance Company.

9. Insofar as Manish Kumar's second contention is concerned, it is apparent that the appellant Insurance Company raised no such contention in its written statement. Consequently, the Tribunal, which passed the impugned award, did not even frame an issue on this aspect. Further, the Insurance Company has also not led any evidence in the matter. In any event, evidence without proper pleadings does not count.

10. Accordingly, there is no scope to consider the second contention now raised by Mr Manish Kumar in this appeal. Based upon such contention, the appellant-Insurance Company cannot avoid liability.

11. Insofar as the first contention is concerned, the Tribunal has already made a pay and recovery order. Accordingly, it cannot be said that the appellant-Insurance Company is seriously aggrieved by the impugned award or the direction to first pay the compensation amount. The Tribunal has validly exercised its discretion, and this appeal does not warrant interference. Accordingly, this appeal is liable to be dismissed and is hereby dismissed without any order for costs.

12. Now that this appeal is dismissed, the claimants shall be entitled to withdraw the deposited compensation amount together with interest, if any, that shall have accrued thereon. The Registry should transfer the deposited amount together with interest

thereon, if any, to the claimants upon their furnishing the identity and bank details.

13. Under no circumstances should the compensation be paid otherwise than through regular banking channels.

14. The appeal is dismissed. The appellant-Insurance Company is permitted to withdraw the statutory deposit amount together with interest, if any, that shall have accrued thereon.

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

September 25, 2026

N.A.F.R.

Ranjeet/Cp.2

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