

In the Court of Sudhakar Pandey
P.O. Motor Accident Claim Tribunal, Bhojpur at Ara.
M.V. Claim Case No. 23/2005

In the Matter of:

1) Dewanti Devi, W/o Sri Baban Chaudhary,

D/o Late Dumari Chaudhary,

R/o-Ward no.5, P.O.-Jagdishpur

P.S.-Jagdishpur, Distt.-Bhojpur.

.....Petitioner.

Versus

1) Abhay Lal, S/o Sukhdeo Lal,

R/o-Harsewak Chowk, Gurudwara Road,

P.S.-Muzaffarpur, Distt.-Muzaffarpur (Bihar).

2) Manoj Kumar Sah, S/o Ram Nath Singh,

R/o-Shitalpur Tola,

P.S.-Dariyapur, District-Chhapra (Bihar).

3) Manager,

The New India Assurance Company Limited,

Patna City.

..... Opposite Parties.

Counsel for Claimant:- Sri Ram Kumar Mishra, Advocate.

Counsel for O.P.:- Sri Sudhir Kumar Sahay, Advocate.

Date of Judgment:- 16.03.2026

Judgment

- 1) The present claim petition has been filed u/ss 140 & 166 of M.V. Act 1988 against the opposite parties on account of the death of Dumari Chaudhary in a motor vehicle accident for compensation of Rs. 5,00,000/-

(Rupees five lakh). The claim petition has been by the Dewanti Devi, daughter of the deceased.

- 2) The case of the claimant in brief is that on 02.06.2005 at 09:45 O'clock, Dumari Chaudhary, aged about 60 years was going to catch the bus on Pilapur NH-30 for his village. Meanwhile one truck bearing reg. no. BR06G-8145 which was being driven fast and negligently by its driver coming from west side (Ara Side) dashed a motorcycle bearing reg. no. BR44-5744 and overran Duman Chaudhary. The driver of the offending truck stopped the truck after the accident and fled away. Dumari Chaudhary died on the spot. The motorcycle driver was taken to Ara Sadar Hospital for treatment by people. On the fard-beyan of Shatrudhan Chaudhary, Jagdishpur P.S. Case no. 113/2005 dated 02.06.2005, u/ss 279/304(A)/338 IPC was registered against the driver of offending vehicle truck bearing reg. no. BR06G-8145.
- 3) The O.P. No. 3 appeared and filed written statement on 22.07.2019. The O.P. Nos. 1 & 2 did not appear and were proceeded ex-parte on 25.09.2019.
- 4) The O.P. 3 stated in the written statement that the claim petition has not been filed on prescribed format, which is mandatory as per M.V. Act, hence on the same ground the entire case is fit to be dismissed. The claim petition suffers from defect of misjoinder and nonjoinder of parties as petitioner has not mentioned in her petition that who is driver and owner of the said Motor Cycle bearing reg. no. BR-44-5744 and neither mentioned D.L. No. even nor filed copy of Driving License of the driver of the said vehicle on the other hand she has not made party of the owner, Driver and Insurance Company of motorcycle bearing reg. no. BR-44-5744 collided with the alleged Truck bearing reg. no. BR-06G-8145. On the other hand the petitioner has not made party of other class 1 heirs of the deceased even nor filed pedigree certificate. The claim petition of the petitioner is false, frivolous, vexatious and malafide and not maintainable

in the eye of law as well as on facts. The claim petition of the petitioner is also barred by law of limitation, estoppel and res judicata and the petitioner has no locus standi to file alone this case as she is daughter of deceased. The petition has not been properly signed, verified and further has not been properly presented. The petition also suffers from the defect as there are no particulars of the Insurance policy of the Truck mentioned in the petition. It is submitted that claimant should furnish along with the petition for claim the full particulars of Insurance policy, age, wage, post-mortem report from hospital and the road permit to show that from where to where Road permit was allowed, which is mandatory as per M.V. Act. Hence on this score also the petition for claim is fit to be dismissed. In the aforesaid case neither death certificate nor full copy of post-mortem report has been filed by the petitioner. The allegation as disclosed in the petition for claim against the owner and driver of the alleged truck is vague and insufficient to establish a charge of negligence. Hence under such circumstances, no case of claim is sustainable in the eye of law. If there is no valid Insurance policy, Driving License, Permit, Post-mortem Report, Charge Sheet, F.I.R. and Police Case Diary, and other papers of the vehicle, there cannot be any claim against the Insurance company even if there is any genuine claim for accident. The opposite party (this Insurance Company) is not liable to pay any compensation in the following condition also. The driver of the alleged accident Truck has no perfect and valid driving license, it is better to mention here that he was plying the Truck without perfect and effective driving license and due to that he has not appeared in this case and even nor filed original and clear driving license. The petitioner has not mentioned Insurance Policy Number in petition, it means the alleged accident vehicle has got no valid and perfect Insurance Policy. The deceased was the pillion rider and the said motorcycle was not insured, hence this O.P. is not responsible to pay compensation. The claimant is also put to the strict proof of the manner of accident alleged in claim petition as the day, time and place of alleged

accident. The answering O.P. has got right to take defence u/s 149 (2) M.V. Act and u/s 170 M.V. Act. No notice was given in writing to the Insurance company immediately upon the occurrence of the alleged accident even concerned police station has not informed the claim Tribunal about the accident, which is mandatory under sec. 156 (06) of M.V. Act and Hon'ble Supreme Court has directed all the State Govt. and Union territories to instruct all the Police Officers about the need to comply with the requirements. The petitioner has not suffered any loss and they have not on starvation and the age of the deceased was not 60 years rather above 60 years and he had no income at the time of alleged accident. Had there been any proof of the Insurance with the answering O.P. (The Insurance Company) and not proved negligence on part of the Vehicle owner covered under the policy, the claimants would not be entitled for more than the amounts as applicable in the policy in force. The answering opposite party has denied every fact alleged in the application, but if any facts have been left undenied the same cannot be considered to have been accepted rather deemed to have been denied. The answering O.P. has reserved its right to file additional written statement, if any fact comes to before the answering O.P.

5) On the basis of the pleadings of the parties, following issues were framed by my predecessor on 29.11.2019.

I. Whether the claim petition is maintainable?

II. Whether the deceased Dumari Chaudhary sustained injuries due to rash and negligent driving of driver of truck bearing reg. no. BR-6C/8145 and died at spot?

III. Whether the truck was insured at the time of accident and driver had valid driving license?

IV. Whether the claimant is entitled to the claim amount?

V. Whether the claimant is entitled to any other relief?

- 6) The claimant examined two witnesses namely C.W.-01 Virendra Singh C.W.-02 Devanti Devi. Claimant also produced documentary evidence i.e. Ext.-1 certified copy Jagdishpur P.S. Case No. 113/2005, Ext.-2 certified copy of charge-sheet no. 71/2006 filed in Jagdishpur P.S. Case No. 113/2005, Ext.-3 original death certificate of Dumari Chaudhary, Ext.-4 photocopy of Driving License, Ext.-5 photocopy of insurance policy, Mark.-X photocopy of the post-mortem report, Mark.-X/1 photocopy of permit and Mark.-X/2 photocopy of registration paper. Opposite Party did not produce any oral or documentary evidence.
- 7) I have gone through the testimony of the witnesses, entire material available on the record. I have also given thoughtful consideration to the arguments advanced by learned counsels for the parties.
- 8) **Issue nos. I & II :-** The present claim petition u/s 166 M.V. Act has been filed by the claimant Dewanti Devi daughter of deceased Dumari Chaudhary resident of ward no.-5, village and post-Jagdishpur, P.S.-Jagdishpur, District-Bhojpur. C.W.-1 Virendra Singh stated that he was standing at Pilapur Bus stand and he saw that at 9:45 O'clock on 02.06.2005, driver of truck bearing reg. no. BR06 G 8145 driving it in a rash and negligent manner first hit a motorcycle and then dashed Dumari Chaudhary standing by the side of the road due to which Chaudhary died on the spot. The occurrence took place at NH-30 road, bus stand, Village-Pilapur. C.W.-2 Dewanti Devi stated that her father Dumari Chaudhary died on 02.06.2005 at National Highway Road near village-Pilapur. Her father was standing at Pilapur bus stand to come to his village Dalipur meanwhile driver of a truck bearing reg. no. BR06G8145, driving it in a rash and negligent manner dashed her father due to which he died on the spot. As per Ext.-01 certified copy Jagdishpur P.S. Case No. 113/2005, the accident took place on 02.06.2005 at about 09:45 P.M. at village-Pilapur, NH-30, P.S.-Jagdishpur, District-Bhojpur in which offending vehicle overran deceased Dumari Chaudhary due to which he died on the spot.

Ext.-2 certified copy of charge-sheet no. 71/2006 dated 28.02.2006 u/ss 279/337/304(A) IPC filed in Jagdishpur P.S. Case No.-113/2005 dated 02.06.2005 reveals that it was filed against the Manoj Kumar Sah, driver of offending truck bearing registration no. BR06G8145 for causing death of Dumari Chaudhary by rash and negligent driving. Ext.-03 original death certificate of Dumari Chaudhary which shows that he died at NH-30, Bus stand, Pilapur. Ext.-X photocopy of the post-mortem report 03.03.2005 of Dumari Chaudhary reveals that he died due to being crushed. The claimant is the legal representative of deceased Dumari Chaudhary being his married daughter. As per section sub-section (1)(c) of section 166 M.V. Act, an application for compensation arising out of accident of the nature specified in sub section (1) of section 165 may be made where death has resulted from accident by all or any of the legal representative of the deceased. Further section 166(2) M.V. Act provides that every application under sub-section (1) shall be made at the option of the claimant either to the claim tribunal having jurisdiction over the area in which the accident occurred or to the claim tribunal within the local limits of whose jurisdiction the defendant resides and shall be in such form and contain such particulars as may be prescribed. Here in this case, the claimant is the resident of Ward no. 5, P.O.-Jagdishpur, P.S.-Jagdishpur, Distt.-Bhojpur which comes within the jurisdiction of this tribunal. The alleged accident also took place on 02.06.2005 at about 09:45 P.M. at village-Pilapur, NH-30, P.S.-Jagdishpur, District-Bhojpur which comes within the jurisdiction of this tribunal.

- 9) Thus, considering the above stated facts, circumstances, and documents and in the light of legal provision contained in the M.V. Act as discussed above, I find that the accident had taken place on 02.06.2005 due to rash and negligent driving of offending vehicle truck bearing reg. no. BR06G8145 and Dumari Chaudhary died in the accident therefore the claim petition filed by claimant is maintainable u/s 166(2) M.V. Act and

as such issue nos. I & II are decided in favor of the claimant and against opposite party.

- 10) **Issue no. III** :- The OP No. 1 has pleaded in its written statement that the driver of offending vehicle BR06G8145 did not have valid and effective license on the date of the accident i.e. 02.06.2005. As per Ext.-4 photocopy of driving license of Manoj Kumar Sah driver of offending vehicle truck bearing reg. no. BR06G8145 filed by claimant, it was valid and effective from 21.07.2003 to 20.07.2006 to drive heavy vehicles. Since, the O.P. No.-1 did not lead any evidence to prove it's averments, it would be construed that driver of offending truck bearing reg. no. BR06G8145 has valid and effective license at the time of alleged accident. As per Ext.-X/1 photocopy form permit of offending vehicle truck bearing reg. no. BR06G8145, it was valid from 22.02.2205 to 21.06.2006 for whole Bihar. As per Ext.-X/2 photocopy of registration paper of offending vehicle truck bearing reg. no. BR06G8145, it was registered in the name of Abhay Lal (O.P. No.-2). As per Ext.-5 Photocopy of Insurance Policy of the offending vehicle truck bearing reg. no. BR06G8145, it was insured with the New India Assurance Company Ltd. vide policy no. 3154010226235 valid and effective from 25.12.2004 to 24.12.2005. Accordingly issue no. III is decided in favour of claimant.
- 11) **Issue nos. IV & V**:- The claim petition is filed by Dewanti Devi who is married daughter of the deceased Dumari Chaudhary therefore she is entitled for compensation. In the claim petition, the age of the deceased Dumari Chaudhary is stated to be 60 years. The witness C.W.-1 has also stated in his evidence that the age of the deceased was 60 years. As per Ext.-01 certified copy Jagdishpur P.S. Case No.-113/2005 lodged on account of accident and death of Dumari Chaudhary, the age of deceased Dumari Chaudhary was 60 years. Therefore the age of the deceased for the purpose of compensation is taken as 60 years. Regarding the income of the deceased C.W.-1 and C.W.-2 have stated in their evidence that the deceased Dumari Chaudhary had an earning of Rs. 10,000/- from the business of cattles. However the claimant

has not filed any documentary proof of the income of the deceased Dumari Chaudhary. As such in the absence of any document with regard to the earning of the deceased, this court is treating the income of the deceased Dumari Chaudhary on the basis of minimum wages effective in the state of Bihar on the date of the accident. Admittedly the accident took place on 02.06.2005 and on that date, the minimum wages of an unskilled agricultural labour working in Bihar was Rs. 68/- per day and this is taken as the income of the deceased at the time of his death. Rs. 68/- is multiplied by 30 which comes to Rs. 2040/- which is treated as the monthly income of the deceased. C.W.-1 and C.W.-2 stated that the wife of the deceased had predeceased him and his sole child was his daughter who was already married. It means the deceased was living bachelor as such it would be construed that the deceased spent $\frac{1}{2}$ of his income on his personal expenses, thus the income of the deceased minus personal expenses comes to Rs. 1020/- per month which comes to Rs. 12,240/- per year. The deceased was 60 years old at the time of his death as such the multiplier of 9 would be sufficient to which 10% future prospect shall be added to calculate the income of the deceased in the light of judgment National Insurance Company Limited versus Pranay Sethi and Others reported in (2017)16 SCC680. Thus after multiplying the earning of the deceased with the multiplier of 9 and adding 10% as future prospect, it comes to Rs. 1,21,176/- which is total loss of the dependency. In addition to this, claimants are also entitled for Rs. 15,000/- towards loss of estate and Rs. 15,000/- as funeral expenses. Thus the total compensation comes to Rs 1,51,176/- (1,21,776+15,000+15,000).

Loss of Dependency :-	-----	Rs. 1,21,176/-
Loss of Estate :-	-----	Rs. 15,000/-
<u>Funeral Expenses:-</u>	-----	Rs. 15,000/-
Total		Rs. 1,51,176 /-

Sudhakar Pandey, P.O. Motor Accident Claim Tribunal, Bhojpur at Ara
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- 12) Hence the claimant is entitled to get compensation of Rs. 1,51,176 /- and the claimant is also entitled for simple interest of 7 percent per annum on the compensation only from the date of framing of issues. Accordingly issue nos. IV & V are decided in favour of claimant.

AWARD

- 13) The present claim petition is allowed. The O.Ps. are jointly and severally liable to pay the compensation. Since the offending vehicle was insured with O.P. No.3 the New India Assurance Company Ltd, therefore O.P. No. 3 is directed to pay compensation to the tune of Rs. 1,51,176 /- (Rupees One lac fifty one thousand one hundred seventy six only) along with 7% simple interest to the claimant within two months from the date of this order by way of cheque in the name of the claimant. It is further directed that O.P. No. 3 shall have right of recovery from O.P. No. 1 and/or O.P. No. 2 i.e. owner and driver respectively of the offending vehicle if there was any violation of the terms and conditions of the insurance policy.

Dated: 16.03.2026

Judgment Pronounced in open court.

Dictated

(Sudhakar Pandey)

District Judge-II

cum

Motor Accident Claim Tribunal

Bhojpur at Ara.

16.03.2026

Dictated and corrected

(Sudhakar Pandey)

District Judge-II

cum

Motor Accident Claim Tribunal

Bhojpur at Ara.

16.03.2026