

**IN THE MACT TRIBUNAL Cum DISTRICT & ADDL. SESSIONS
JUDGE III, JHANJHARPUR**

Present- Anil Kumar Ram
D.A.S.J.-III, Jhanjharpur

Dated: 14th day of May, 2026

**MACT case No- 32/2014
CIS No- 32/2014**

**1. Lakho Devi W/o Late Lalit Narayan Kamat @ Lalit Kamat
Village-Jagatpur, P.O.-Jagatpur, P.S.-Phulparas, District-Madhubani**

..... Applicant/Claimant

Versus

1. Megh Nath S/o- Shri D. Pandit

R/o Village-Hajara Patna, P.S. & District-Patna

2. Rakesh Kumar, S/o- Uma Kant Tiwary

R/o Village under Town Patna, House No. 36, Road 3A Indrapuri, P.O.-

Keshri Nagar, District-Patna- 800024, Phone no. 9386551848

3. Natinal Insurance company Limited at Secunderabad Division-4

Ist Floor flat No. C-17 to 19 Minerva Complex, S.D. Road Secunderabad

Andhara Pradesh Through its Branch Manager National Insurance com.

Ltd Divisional office No. 11 Arunachal Bridge Exhibition Road Patna-800001

4. Branch Manager, National insurance company Ltd., Branch Gandhi Chowk,

Near of Suri High School Madhubani, P.O & P.S. & District- Madhubani

.....Opposite Parties

Learned Counsel for Applicant:- Sri Hari Mohan Das, Harendra Kishore,

Ld. Advocate

Learned Counsel for Opposite party:- Sapan Kumar Singh

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JUDGMENT

1. This is a claim filed by Lakho Devi, U/S- 140 of the M. V. Act, 1988 (hereinafter referred as the Act) claiming compensation of Rs. 10,00,000/- on account of deceased Lalit Narayan Kamat by a Tata Indigo car having Registration No. BR-11TC-9664, accident happened on 13.03.2014 at about 06:30 PM.
2. The facts necessary for disposal of the claim may shortly be stated that on 13.03.2014 at about 06:30 PM a Tata Indigo bearing registration no. BR-11TC-9664 driven by OP no. 1 Megh Nath rashly and negligently, dashed the husband of Claimant namely Lalit Narayan Kamat who was travelling by motorcycle and coming Jagatpur from Tajpur Via Araira which resulted into the death of Lalit Narayan Kamat @ Lalit Kamat . The accident took place near village Sangram chowk O.P. Arariya Sangram on N.H. 57. The driver of the vehicle fled away and after then case was instituted as Jhanjharpur (Araria Sangram) P.S case No. 49/14 under sections 279, 304(A) of IPC.
3. The O.P. No. 3 appeared in this case and has filed written statement and stated that the claim petition as framed and filed by the claimant is not maintainable in the eye of law as well on facts. That the claim petition is barred by principle of waiver, estoppel, and acquiescence. That there is no cause of action as against this opposite party. That the claim is bad for misjoinder of unnecessary parties and non-joinder of necessaries parties. That the Opposite party denies all the above accident alleged to have taken place on 13.03.2014 about 6:30 PM as stated in colum No. 8 of the claim petition and nature of injury sustained as stated para and else where in the claim petition. Now the claimant are bound to prove that only the accident and injuries as alleged the allegation that it was caused by the driver of the alleged vehicle and therefore his rash and negligent driving. That the allegation made in claim

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application in para No. 1 to 6 are not admitted by the Opposite party and the claimant are put to stick test proof of substantiates the allegations. That manner of allged is purposely false and concocted and it deserve non consideration by this Court. That the owner of the vehicle concerned was not informed about the allged accident and such stone of the allged accident and such story of the allged accident is not reliable and in permit and condition of the policy the owner of vehicle concerned if insured with O.P. National Insurence Company Ltd should have furnished police report and copy of policy immediately after the allged accident but same has not been furnished to this O.P. as yet and even claimant not informed this O.P. about the so-called accident and for this made reason also claim about is O.P. is not maintainable. That the driver was driving his Indigo car vide registration No. BR-11TC 9664 negligently and therefore accident took place. All the responsibility goes upon the driver and owner of Indigo Car vide registration No. BR-11TC-9664. That in the interest of jusitce it is essential that claimant or owner of the vehicle shall be directed to produce Insurance policy R.B. Bank and valid and effective driving license of the driver who was driving the said vehicle of the Material times of the allged accident and prove its validity failing which it shall be presumed that there is statutory violation of the policy condition of contemplated under section 147,148,149 of M.V. Act 1988 and the O.P. That the informant stated in F.I.R that on 13.03.2014 about 6:30 PM we were coming from Tajpur after Cheka to his village Jagatpur when we reahced near Sangram Chowk P.S Araria Sangram O.P. then his cousin Lalit Kamat from left side of the motorcycle of his friend vide Registration No. 95BR-01-BH3512 was going to his village then at random a New Indica Car vide Registration No. BR11TC9664 driver was driving the car rashly and negligently and hit the motorcycle of Lalit Kamat from back. Cousin Lalit

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Kamat badly injured and fell down on earth then we took to DMCH Darbhanga for treatment at 9:50 PM his cousin Lalit Kamat died in DMCH during treatment. Informant stated that the driver of said Indica car hit the motorcycle of Lalit Kamat with intention to kill him. The conduct of driver is fully negligent and all responsibility goes upon the driver. That this way the O.P does not admit the statement in para No. 7,8,9,10,11,12 and 13 and other of the claim petition and burden to prove the same i.e on the claimant structly. That without prejudice to the contention vaciated here in above the O.P. is entitled to law to get protection u/s 147 of the M.V.Act. 14. That the Statement of informant shows that all responsibility of accident goes against the driver of the vehicle. That this O.P. reserve of right to take all defence acquitable to the applicant or owner O.P. it is necessary as provides under section 170 of M.V. Act. That what ever is not specifically admitted in written statement are denied to have been by the insuring party and every allegation contained in this claim petition. That this O.P. will not be liable for any interest onward to the delay on the part of the claimant or the Court. That this O.P reserve their right to press points or law and facts of the time of hearing as well as add and amend the written statement if so required. That it is admitted the said vehicle (car) vide registration No. BR11T09664 was insured by police Number 552700311361002122844 by the O.P. from Divisional office No. II, Arunachal Building Exhibiton Road Patna-80001.

4. On the basis of the pleadings of the parties the following issues have been settled:-

- (I) Whether the claim case as framed is maintainable?
- (ii) Whether the claimant has got any cause of action to file this claim petition ?
- (iii) Whether the deceased Lalit Narayan Kamat @ Lalit Kamat, husband of the claimant Lakho Devi, died on 13.03.2014 due to offending vehicle

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accident on 13.03.2014 at about 06.:30 PM due to rash and negligent driving of the vehicle Tata Indigo bearing Registration No. BR-11TC-9664 ?

(iv) Whether the above said vehicle was insured at the time of alleged accident?

(v) Whether the driver of the said offending vehicle have a valid driving license at the time of alleged accident?

(vi) Whether the driver of the said offending vehicle was driving said vehicle very rashly and negligently at the time of alleged accident?

(vii) Whether the claimant is legal heir of deceased Lalit Narayan Kamat and entitled to compensation as on the account of aforesaid death of deceased in the accident and it is to what amount from whom?

5. In order to prove the case, the claimant has examined altogether five witnesses. (1) Lakho Devi- CW1, (2) Sri Kant Kamat- CW2 , (3) Pitambar Rai-CW3, (4) Raj Kumar Kamat -CW4 and (5) Vir Bahadur Rai – CW5 . They have also produced some documents which have been marked as exhibits.

Exhibit-1 : is Photo copy of F.I.R. of Jhanjharpur (Araira Sangaram) P.S Case no. 49/2014.

Exhibit -2: is Photo copy of Postmortem Report of deceased Lalit Kamat.

Exhibit -3: is Photo copy of death certificate of Lalit Naryan Kamat .

Exhibit- 4:- is Photo copy of Genolocial Table of Lakho Devi.

Exhibit- 5:- is Photo copy of Retail Invoice of Tata Indigo Car.

Exhibit- 6:- is Photo copy of certificate of insurance of Vehicle Tata Indigo having insured person Rakesh Kumar.

Exhibit- 7:- is Photo copy of Vehicle delivery Challan to Owner of Tata Indigo Rakesh Kumar.

Exhibit-8:- is Photo copy of Sale Certificate in name of Rakesh Kumar.

Exhibit-9:- is photo copy of Driving licence of Megh Nath.

6. The opposite party has not produced any oral or documentary evidence.

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7. I have carefully perused the evidence on record and heard learned counsel for both the parties and accordingly, proceeded to dispose of the case on the basis of issues .

DISCUSSION, DECISION AND REASONS THEREOF:

8. Now, let me take up the issues one by one though these are not in sequence.

Issue No. iii : Whether the deceased Lalit Narayan Kamat @ Lalit Kamat, husband of the claimant Lakho Devi, died on 13.03.2014 due to offending vehicle accident on 13.03.2014 at about 06.:30 PM due to rash and negligent driving of the vehicle Tata Indigo bearing Registration No. BR-11TC-9664 ?

I take this issue first as the whole claim starts with this. The Claimant Lakho Devi examined as CW-1 has stated that deceased Lalit Narayan Kamat was her husband and on 13-03-2014 at about 6:30 P.M., Tata Indigo car bearing Registration No. BR-11TC-9664 dashed him rashly and negligently when deceased was coming Jagatpur from Tajpur Via Araira . Sri Kant Kamat-CW2 , Pitambar Rai-CW3, Raj Kumar Kamat -CW4 and Vir Bahadur Rai – CW5 who are eye witnesss have also supported the above fact in para- 2 of their examination that offending vehicle was Tata Indigo car bearing Registration No. BR-11TC-9664 . The opposite party has neither claimed nor adduced any evidence to show that the offending vehicle was not present there or was not involved in the accident. From perusal of Exhibit -1 which is photo copy of FIR no. 49/14 of Jhanjharpur (Araria Sangram) , it transpires that offending vehicle was Tata Indigo car bearing Registration No. BR-11TC-9664 . Thus from above facts it is clear that the accident took place on 13.03.2014 at about 06.:30 PM by offending vehicle bearing Tata Indigo bearing Registration No. BR-11TC-9664 causing death of Lalit Narayan Kamat. Hence this issue is decided in favour of the applicant with observation that the deceased Lalit Narayan Kamat @ Lalit Kamat, Husband of the

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claimant Lakho Devi died on 13.03.2014 due to offending vehicle accident on 13.03.2014 at about 06.:30 PM due to rash and negligent driving of the vehicle Tata Indigo bearing Registration No. BR-11TC-9664 .

Issue no. iv: Whether the above said vehicle was insured at the time of alleged accident?

9. On perusal of the Exhibit Mark- X/8, it becomes clear that alleged Tata Indigo bearing Registration No. BR-11TC-9664 whose owner is Rakesh Kumar, resident of House No. 36, Road 3A Indrapuri, PO- Khesri Naghar, District Patna is insured with the O.P. no.3 National Insurance company Ltd. and the policy was valid from 03.03.2014 to Midnight 02.03.2015. Alleged date of accident is on 13.03.2014 which comes under the policy period. These facts show that the O. P. no. 2 is the owner of the said Tata Indigo Car involved in the accident was insured with O.P no. 3 National Insurance company Ltd. on the relevant date and time of accident. Hence this issue is also decided in favour of the applicant.

Issue no. v : Whether the driver of the said offending vehicle have a valid driving license at the time of alleged accident?

10. From the perusal of Exhibit 9, I find that the applicant has filed driving license of driver Meghnath which is valid up to 05.10.2019 and it has been marked as Exhibit-9. From above facts it is clear that the driver of the said offending vehicle have a valid driving license at the time of alleged accident and issue no. V is also decided in favour of applicant.

Issue no. Vi : Whether the driver of the said offending vehicle was driving said vehicle very rashly and negligently at the time of alleged accident?

11. From perusal of Exhibit 1 , I find that Jhnajharpur (Araria Sangaram) P.S. Case no. 49/2014 was registered u/s 279/304(A) of I.P.C. and . On further perusal of para -2 of Sri Kant Kamat- CW2 , Pitambar Rai-CW3, Raj Kumar Kamat -

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CW4 and Vir Bahadur Rai – CW5 who are eye witnesses, I found that witnesses have stated that driver of Tata Indigo Car was driving the vehicle rashly and negligently. The learned counsel for O.P. opposed these facts on ground of fitness certificate during argument but has not produced any witness in support of his contention. Hence in the light of above mentioned facts and circumstances issue no. VI is decided in favour of applicant with observation that the driver of the said offending vehicle was driving said vehicle very rashly and negligently at the time of alleged accident.

Issue no. VII Whether the claimant is legal heir of deceased Lalit Narayan Kamat and entitled to compensation as on the account of aforesaid death of deceased in the accident and it is to what amount from whom?

12. The applicant being wife of the deceased is his legal heir and being legal heir she is entitled for the compensation on account of her death. As per Police investigation and Ext-1 which is copy of FIR, this case has been registered against the driver of Tata Indigo Car vehicle having Registration No. BR-11TC-9664 registered with National Insurance company Ltd. and hence OP no. 3 is liable for compensation. Since the deceased was dashed by Tata Indigo Car and hence the Tata Indigo Car has only role in alleged accident.
13. In the same issue there remains moot point for consideration is as to what would be the quantum of compensation? The age of the deceased is stated to be 32 years. Admittedly, there is no any documentary proof to show the age of deceased. But the postmortem report (Ext. 2) reveals that he was aged about 32 years.
14. Also there is nothing to show as to what was the income of the deceased at the relevant time. The deceased was Private Tution Teacher and as held in several judgment notional calculation should be done. Considering all these aspects, I feel that his monthly income should be calculated as per the Minimum Wages

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for a semi skilled worker at the relevant time. In Bihar the minimum wages for semi skilled worker for March 2014 was Rs. 309/- per day. Considering an average of 25 working days in a month, the monthly income comes to Rs. 7725/- (309*25). Hence the annual income becomes Rs. 92700/- (7725*12).

15. Admittedly, the deceased is a married male with four dependents, wife, one son and two daughters. So, 1/4th of the amount can be deducted for his personal living expenditure

Hence, total loss of dependency would come to –Rs. 11,12,400/- i.e. taking the multiplier of 16 according to the age of the deceased being 32 years as per decision of Hon'ble Supreme Court in Sarla Verma and Pranay Sethi case. There is no proof of income and the income has been calculated on notional basis of minimum wages keeping him in the group of semi skilled worker. It was argued on behalf of Ld. counsel for the applicant that addition for future prospects must be done. It is apt to note from the conclusion in para 61 in National Insurance Company Limited Vs. Pranay Sethi & Ors. Para 61(iv). In case the deceased was self- employed or on a fixed salary, an addition of 40% of the established income should be the warrant where the deceased was below the age of 40 years. An addition of 25% where the deceased was between the age of 40 to 50 years and 10% where the deceased was between the age of 50 to 60 years should be regarded as the necessary method of computation. The established income means the income minus the tax component.

16. In the case of Pappyyu Deo Yadav Versus Naresh Kumar and Ors Civil appeal no. 2567 of 2020, decision dated 17/09/2020 Hon'ble Apex Court pleased to observe that two question arise for consideration:one, whether in cases of permanent disablement incurred as a result of motor accident, the claimant can seek, apart from compensation for future loss of income, amounts for future

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prospects too; and two, the extent of disability. It was also held that there was no justification to exclude the possibility of compensation for future prospects in accident cases involving serious injuries resulting in permanent disablement. Such a narrow reading of Pranay Sethi victim's death. (Para 7 of the judgment). In Para 8 it has been held that "Just compensation" should include all elements that would go to place the victim in as near a position as she or he was in, before the occurrence of the accident. Whilst no amount of money or other material compensation can erase the trauma, pain and suffering that a victim undergoes after a serious accident, (or replace the loss of a loved one), monetary compensation is the manner known to law, whereby society assures some measure of restitution to those who survive, and the victims who have to face their lives. In the present case the age of deceased was 32 years having no permanent job or was self employed and hence future prospect 40 percent is granted .

17. In addition to that the following conventional heads of compensation has been added. (i) Funeral expenditure: Rs. 15,000/- (ii) Loss of Estate: Rs. 15,000/- (iii) Loss of consortium: Rs. 40,000/-. (iv) Future prospect : 593280/- Grand total of the whole of the compensation thus comes to Rs.1775680 /- (1112400+ 15,000+15,000+40,000+ 593280).

ORDER

18. In the result, the claim of the applicants is allowed to the extent of Rs.1775680 /- (Rs. Seventeen Lakhs Seventy Five Thousand and Six Hundred Eighty only) carrying interest at the rate of Rs. 9% per annum from the date of filing the petition till its realization.
19. The O.P. no. 3 National Insurance company Ltd. is directed to pay the amount

within one month from the date of this order to the claimant. The Insurance

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Company, however, is at liberty to realize the amount from the owner for violation of policy conditions as per law.

20. Office is directed to prepare the MACT award as directed above and consign the case record in record room.

Written and corrected by me

(Anil Kumar Ram)
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