IN THE COURT OF PRINCIPAL DISTRICT JUDGE, NAWADA -CUM - MOTOR ACCIDENTS CLAIM TRIBUNAL NAWADA (BIHAR)

MACT/M.V. Case No. 13/2006

[Nawada Nagar P.S. case No.-402/2005]

Fatal Case

1. Shanti Devi, age - 63 years
   W/O Late Karu Yadav
2. Sanjay Prasad, age - 43 years
   S/O Late Karu Yadav
3. Reeta Kumari, age - 36 years
   D/O Late Karu Yadav

All R/O Vill.-Kundil Par, P.S.- Akbarpur,
Distt.-Nawada (Bihar)

.... **Claimants/Applicants**

Versus

1. Branch Manager,
   National Insurance Company Limited
   Rajendra Nagar, Nawada.
   (Insurer of Tata 407 Maxi Bearing Reg. No BR-13P-6539 vide Policy No. 171101/31/05/67/00000658 Valid from 16.07.2005 to 15.07.2006)
2. Saroj Kumar, S/O- Aditya Singh
   R/O Village- Baliya Bujurg, P.S- Akbarpur, Distt.-Nawada
   (Owner of Tata 407 Maxi Bearing Reg. No BR-13P-6539)
3. Niranjan Kumar, S/O- Surendra Singh
   R/O Vill- Baliya Bujurg, P.S.-Akbarpur, Distt.- Nawada
   (Driver of Tata 407 Maxi Bearing Reg. No BR-13P-6539)

.... **Opposite Parties**

Learned Counsel for the Claimants: ....Ms. Rekha Kumari
Ld. Adv.

Learned Counsel for the O.P. No.-1- Sri Krishna Kumar
Ld. Adv.

Learned Counsel for the O.P. No.- 2 & 3 – Not Appear

Date of judgment: 08.05.2026

Present:- Ashutosh Kumar Jha
Motor Accidents Claims Tribunal
-cum-
Principal District Judge, Nawada
08-05-2026

JUDGMENT

Before passing the judgment, it is pertinent to mention here that judgment in this case has already been passed by the Ld. Addl. Sessions Judge-II – Cum- Addl. MA.C.T.-II, Nawaada on 21.04.2010 and whereunder while allowing the claim petition, O.P. has directed to pay Rs. 4,23,000/- minus Rs. 50,000/- having been paid in terms of section 140 of the M.V. Act with a simple interest of 8% per annum effective from the date of order till final realization of the amount. Thereafter O.P./National Insurance Co. Ltd. filed an appeal before the Hon'ble High Court, Patna vide Miscellaneous Appeal No.-759/2010 in which the Hon'ble High Court passed an order on 21.06.2016 that – "The judgment and award impugned are set aside. Appeal is allowed. The matter is remitted back to the learned lower court to frame additional issue on that very score and procure evidence from respective sides and the, after hearing both the parties will pass an appropriate order in accordance with law on all issues afresh."

1. Present claim petition under Section 166/140 of Motor

Vehicle was filed by the petitioners Shanti Devi, Sanjay Prasad and Reeta Kumari, legal heirs of the deceased namely Late Karu Yadav (hereinafter referred to as deceased) for claiming compensation for the fatal injuries suffered by the deceased in a road accident.

2. Brief facts of the case are that on 30.12.2005 the deceased Karu Yadav while he alongwith others were travelling by Tata Maxi bearing Reg. No.-BR-13P-6539 after participating in a funeral of Bedam Devi their co-villager from Barh. The aforesaid vehicle met with an accident on account of rash and negligent driving. The deceased who was sitting inside the Maxi sustained injuries and in a way to Patna, he succumbed. It has further been disclosed that the deceased was engaged in milk business and was earning Rs. 160/- per day. At the time of death the deceased was aged about 45 years.

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3. Nawada Nagar P.S. Case No. -402/2005 dated 30.12.2005 under Sections 279/304(A) IPC got registered at Police Station Nawada Nagar, District Nawada. Police conducted the investigation. After due investigation, the police submitted final form against driver of Tata Maxi bearing Regn. No.- BR-13P—6539 namely Arvind Kumar.

4. During proceedings, written statement was filed on behalf of the Respondent No. 1 National Insurance Co. Ltd.

wherein it was submitted that the claim is bad for non-joinder of necessary parties and claimants have not complied with the provision of Rule 92 of Bihar Motor Vehicle Rule and the concerned police station has not complied with Section 158(6) of the M.V. Act. It was also submitted by the Respondent No. 1 that the claim of compensation is excessive, imaginary and exaggerated and Respondent No. 1 also submitted that the insurer reserves his right to contest the claim petition as per Section 170 of M.V. Act. Respondent No. 1 National Insurance Co. Ltd. further submitted that the offending vehicle was plying on road in rash and negligent manner and the vehicle has violated the terms and condition of the policy.

O.P. No.-1 further submitted that driver was not at all a licensee and in likewise manner, road permit was also lacking. Fitness certificate was not at all on record. Adding furthermore, it has been submitted that the strength of Tata Maxi happens to be that of 22 passengers while 25-30 passengers were inside the vehicle at the relevant time apart from having presence over roof, additionally. On account thereof, it has been submitted that there happens to be breach of policy and so, Insurance Company is not at all liable to indemnify the burden against the owner. Furthermore, it has been submitted that Saroj Kumar has been shown as owner of the vehicle while as per policy the name of the owner happens to be Ashok Kumar Pandey.

Despite notice Saroj Kumar and Niranjan Kumar appeared but could not file their written statement and on account thereof, the proceeding proceeded ex-parte against O.P. No.-2 Saroj Kumar and O.P. No.-3 Niranjan Kumar.

5. Following fresh issues were framed by this Tribunal on 23.02.2022:-

(i) Whether the related accident happened on dated 30.12.2005 at 03:00 P.M. by Tata 407 Maxi No.-BR-13P-6539?

(ii) Whether the driver of offending vehicle Tata 407 BR-13P-6539 driving rashly and negligently due to the that the accident happened dated 30.12.2015 at 03:00 P.M.?

(iii) Whether the driver of offending vehicle Tata Maxi No.-BR-13P-6539 is driving rashly and negligently where Karu Yadav accident on place and died at the same place?

(iv) Whether the offending vehicle is insured during accident time period?

(v) Whether at the time of alleged accident, who was real owner of Tata 407 Maxi bearing Regn. No.-BR-13P-6539 either Saroj Kumar O.P. No.-2 in the stand case or Ashok Kumar Pandey?

(vi) Whether at the time of alleged accident person namely

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Niranjan Kumar in the stand case or Arvind Kumar, driver the vehicle 407 Maxi No.-BR-13P-6539 or not?

(vii) Whether the said vehicle was over loaded at the time of alleged accident or not?

(viii) Whether at the time of alleged accident offending vehicle had valid permit or not?

(ix) Whether Karu Yadav died on that very accident?

(x) Whether applicants are entitle to get compensation or not?

6. During evidence, C.W.1 Shanti Devi is claimant herself who deposed that on 30.12.2005 at 03:00 P.M. her husband Karu Yadav alongwith other co-villagers were going to Barh participate in a funeral of Bedam Devi by Tata Maxi bearing Regn. No.-BR-13P-6539 and when the vehicle reached at N.H.-31 near village Gondapur then due to rash and negligent driving of the driver said vehicle was overturned due to which her husband sustained injuries and her husband was brought to Sadar Hospital Nawada from where he referred to P.M.C.H., Patna for better treatment but in a way to Patna, her husband Karu Yadav succumbed to his injuries. She further states that her deceased husband was aged about 45 years and the deceased was running a business of milk and used to earn Rs. 5,000/- from which her family was getting feeded.

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C.W.-01 deposed in her cross-examination that she filed this case and the vehicle was overturned while returning near Gondapur after funeral work of Bedam Devi. The accident took place by vehicle 407. She further deposed that she didn't recollect the day and date of the accident. She further states that approx 50 persons were travelling by the aforesaid vehicle and she cannot say the registration number of the offending vehicle. She further states that the deceased was earning Rs. 5,000/- per month from the business of milk. She further denies to the suggestion that she is deposing falsely and due to overload the offending vehicle was unbalanced and overturned thereof.

C.W.-02 Dularchand Prasad who is alleged to be eye witness to the accident who deposed in his affidavit-Cum-examination-in-chief that as deposed by C.W.-01 in her affidavit-Cum-examination-in-chief.

During cross-examination, C.W.-02 deposed that accident took place on 30.01.2005 at 03:00 P.M. and he again deposed that occurrence took place on 30.12.2005 and on that day the deceased was travelling by 407 vehicle bearing Regn. No.-6539 and total 18 persons were travelling on that vehicle. He further deposed that the deceased was succumbed to his injuries during in way to go to Sadar Hospital, Nawada. He also states that the deceased Karu

Yadav was aged about 45 years and he used to earn Rs. 5000/- per month. He lastly denies to the suggestion of the O.P. No.-1 that he is deposing falsely and the offending vehicle was overturned itself due to overload of passengers and Karu Yadav has died due to self carelessness.

C.W.-03 Sanjay Gope is applicant No.-2 of this case and son of the deceased who deposed in his affidavit-Cum-examination-in-chief that on 30.12.2005 his father Karu Yadav was returning after the funeral of Bedam Devi by Tata Maxi 407 bearing Regn. NO.-BR-13P-6539 and when he reached near N.H.-31 near Gondapur then the said Maxi vehicle was overturned due to which his father sustained injuries and in way to Sadar Hospital Nawada Karu Yadav succumbed to his injuries. He further states that his deceased father comes under third party of the insurance in this case. He further states that he made a party of Saroj Kumar as opposite party No.-02 on the basis of report dated 12.01.2006 of M.V.I. Gaya. He also states that name of Ashok Kumar Pandey on insurance paper is correct and genuine because the said policy was purchased by the Ashok Kumar Pandey who was the first owner of the vehicle thereafter O.P. No.-2/Saroj Kumar purchased the said vehicle from the Ashok Kumar Pandey but ownership has not been transferred in the name of Saroj Kumar. He also deposed that he also made Niranjan Kumar, a party in the present case, getting the driving license from the police station and filed this case but after due investigation I.O. of the case submitted charge-sheet against Arvind Kumar after long time and applicants could not take the certified copy of the charge-sheet due to which the claimants failed to correct/replace the name of Arvind Kumar instead of Niranjan Kumar.

C.W.-03 Sanjay Gope deposed in his cross-examination in para-11 that occurrence took place on 23.12.2005 at about 03:00 P.M. He further deposed in para-13 that he get information about the accident from his co-villager. The deceased was aged about 45 years at the time of accident. He also deposed in para-14 that he never gave his statement before the police which are mentioned in para-05 to 09 of his affidavit-Cum-examination-in-chief. He further states that he knows the owner of offending vehicle is Ashok Kumar Pandey and thirty persons were travelling on the offending vehicle. He further denies to the suggestion of the Ld. counsel of the O.P. NO.-1 that he is deposing falsely.

7. Documents filed on behalf of Claimants and the same has been marked as exhibits:-

Sl. No.	Exhibit No.	Description of exhibit
1.	Ext.1	Certified copy of F.I.R. of Nawada

		Nagar P.S. Case No.-402/2005
2.	Ext.2	Photocopy of Owner Book
3.	Ext.3	Photocopy of Insurance paper
4.	Ext.4	Photocopy of Tax Token receipt
5.	Ext.5	Photocopy of permit paper of offending vehicle
6.	Ext.6	Photocopy of M.V.I. report
7.	Ext.7	Photocopy of Driving license of Niranjan Kumar
8.	Ext.8	Photocopy of postmortem report of the deceased

No any fresh documentary evidence has been filed on behalf of the applicants.

8. No other witness has been examined by the petitioners.

9. No witness has been examined on behalf of opposite party No.-1 National Insurance Co. Ltd. nor filed any document on its behalf.

10. After hearing the arguments and considering the material on record, my issue–wise findings are as follows :-

ISSUE No. (i), (ii), (iii), (iv) & (ix) :-

11. The issue No. (i), (ii), (iii), (iv) & (ix) will be decided together because they are interrelated. To determine the negligence of the driver of the offending vehicle, I am relying on propositions laid down by the Hon'ble High Court and the Hon'ble Supreme Court in catena of judgments "wherein it has been held that the registration of a criminal case against the driver of the offending vehicle is enough to record the finding that the driver of offending vehicle is responsible for

causing the accident. Further it has been held in catena of cases that the proceedings under the Motor Vehicles Act are not akin to the proceedings as in civil suit and hence strict rules of evidence are not required to be followed in this regard. and wherein it was held that in case the petitioner files the certified copy of the criminal record or the criminal record showing the completion of the investigation by the police or the issuance of charge sheet under Section 279/304 of IPC or the certified copy of the FIR or in addition the recovery memo or the mechanical inspection report of the offending vehicle, these documents are sufficient proof to reach to the conclusion that the driver was negligent. It is also settled law that the term rashness and negligence has to be constructed lightly while making a decision on a petition for claim for the same as compared to the word rashness and negligence as finds mention in the Indian Penal Code. This is because the chapter in the Motor Vehicle Act dealing with compensation is a benevolent legislation and not a penal one."

12. As per above discussion, it is proved on record that the deceased suffered fatal injuries due to rash and negligent driving of driver of the offending Tata 407 Maxi bearing Regn. No.- BR-13P-6539 and the deceased died due to motor accident, the same is established by Ext.1 (FIR) and from

perusal of the F.I.R it appears that on 30.12.2005 at 03:00 P.M. the informant and his co-villagers alongwith the deceased Karu Yadav were returning after funeral of Bedam Devi by Tata 407 Maxi bearing Regn. No.-BR-13P-6539 and when the vehicle reached on N.H.-31 near Gondapur then the vehicle was overturned due to rash and negligent driving of driver of Tata Maxi vehicle resulting various persons who were travelling on said vehicle sustained injuries and the deceased died during the way to go to hospital. The postmortem report (Ext.-8) also corroborate that the deceased was died in motor accident as the cause of death of the deceased is shock and hemorrhage due to mentioned injuries, particularly in over the forehead due to hard blunt object. Further Ext.-2 photocopy of certificate of registration, Ext.-4 Photocopy of tax token which shows that offending vehicle Tata 407 Maxi bearing Regn. No.-BR-13P-6539 had valid registration and relevant documents of vehicle at the time of accident i.e. on 30.12.2005. Further Ext.-3 photocopy of policy paper also shows that offending vehicle Tata 407 Maxi bearing Regn. No.-BR-13P-6539 was insured with O.P. No.-1 National Insurance Co. Ltd. and same was never rebutted by the O.P. No.-1 that the said offending vehicle was not insured by the National Insurance Co. Ltd. Hence, the issue No.- (i), (ii), (iii), (iv) and (ix) are decided in the

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favour of the claimants and against the O.P. No.-1.

ISSUE No.- (v) and (vi) :-

In this regard, the Hon'ble High Court observed in para-09 of the order dated 21.06.2016 in Miscellaneous Appeal No.-759/2010 as :

"9. Because of the fact that the judgment impugned happens to be deficient one, on account of non framing of issues over the controversy regarding owner of the Tata Maxi bearing registration No. BR-13P/6539 as well as driver of the vehicle who had driven the same at the fateful time and so there happens to be complete absence of relevant evidence to enlighten the real position whether Saroj Kumar, the person who has been impleaded as Opposite Party identifying him as owner of Tata Maxi bearing registration no. BR-13P-6539 or Ashok Kumar Pandey against whose name insurance policy stood and in likewise manner Arvind Kumar, the charge-sheeted accused or Niranjan Kumar, the party so pleaded as driver of the aforesaid Tata Maxi bearing registration no. BR-13P/6539 at the relevant time of accident."

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Issue No.- (v) Whether at the time of alleged accident, who was real owner of Tata 407 Maxi bearing Regn. No.-BR-13P-6539 either Saroj Kumar O.P. No.-2 in the stand case or

Ashok Kumar Pandey.

Issue No.- (vi) Whether at the time alleged accident person namely Niranjan Kumar in the stand case or Arvind Kumar, driver the vehicle 407 Maxi No.-BR-13P-6539 or not?

In this regard, applicant only produce a witness on its behalf i.e. C.W.-03 Sanjay Gope who is son of the deceased who deposed in para-8 and 9 of his affidavit-Cum-examination-in-chief that name of Ashok Kumar Pandey on insurance paper is correct and genuine because the said policy was purchased by the Ashok Kumar Pandey who was the first owner of the vehicle thereafter O.P. No.-2/Saroj Kumar purchased the said vehicle from the Ashok Kumar Pandey but ownership has not been transferred in the name of Saroj Kumar. He also deposed that he also made a party of Niranjan Kumar getting the driving license from the police station and filed this case but after due investigation I.O. of the case submitted charge-sheet against Arvind Kumar after long time and applicants could not take the certified copy of the charge-sheet resulting claimants failed to correct/replace the name of Arvind Kumar instead of Niranjan Kumar. During cross-examination O.P. No.-1 failed to rebut the contents deposed in para-08 and 09 by the C.W.-03. O.P. No.-1 only questioned to the C.W.-03 that whether C.W.-03 gave his statement before the police regards to the contents of para-08 and 09 and in answer C.W.-03 Sanjay Gope deposed in para-14 that he never gave his statement before the police in this regard. Further in para-15 of the cross-examination C.W.-03 deposed that he has knowledge that the real owner of the offending vehicle is Ashok Kumar Pandey and total 30 persons were seated in the said vehicle. Hence, it is clear that Arvind Kumar and Ashok Kumar Pandey were driver and the owner respectively of the offending vehicle Tata 407 Maxi bearing Regn. No.-BR-13P-6539. Hence, these two issues are also in favour of the applicants and against the O.P. No.-1/National Insurance Co. Ltd.

ISSUE No.- (vii) and (viii) :

From perusal of the F.I.R. (Ext.-1) it was admitted in the fard-e-beyan of the informant that 25-30 persons were travelling by the offending vehicle on the day of the accident. C.W.-01 Shanti Devi claimant herself deposed in para-06 of her cross-examination that total 50 persons were travelling, thereafter C.W.-03 who is alleged to be eye witness of the accident deposed in para-08 of his cross-examination that total 18 persons were travelling by the offending vehicle at the time of accident. But informant of this case is more reliable and trustworthy witness of this case who deposed that 25-30 persons were travelling. Further after perusal of the Ext.-2 (photocopy of the registration certificate of offending vehicle Tata 407 bearing Regn. No.-BR-13P-6539), it was mentioned in Column 1. class of vehicle is – Tata 407, column No.-2 Maker's Name – Tata Ltd., Column- 13 Seating capacity – 22 (Twenty Two). Hence, it is proved that the offending vehicle Tata 407 Maxi bearing Regn. No.-BR-13P-6539 were carrying more than 22 persons at the time of accident which is excessive of its seating capacity. Hence issue No.-(vii) is decided in favour of O.P. No.-1/National Insurance Co. Ltd. and against the applicants as well as other parties in this case. Further from perusal of the Ext.-5 (photocopy of permit paper) shows that at the time of the accident offending vehicle had valid permit papers, hence, issue No.-(viii) is decided in favour of applicants and against the O.P. No.-1/National Insurance Co. Ltd.

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Issue No. (x) (Compensation):-

13. Apex Court in **Sarla Verma Vs. DTC (AIR 2009 SC 3104)** comprehensively dealt with the relevant principles relating to the assessment of the compensation in the death cases. Apex Court in this case observed that in fatal accident, the measure of damage is pecuniary loss suffered or is likely to be suffered by each of the dependent as a result of death, and basically only three facts need to be established by the claimants for assessing compensation in case of death : (a) the age of the deceased or the claimant whichever

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is higher, (b) income of the deceased and (c) the number of dependents. Hon'ble Apex Court in case titled '**National Insurance Company Ltd. Vs. Pranay Sethi & Ors.**' (Special Leave Petition (Civil) No. 25590/2014, decide on 31.10.2017) has dealt with the concept of 'just compensation'. Paragraph No. 57 of above-said Judgment is reproduced as under:

"57. Section 168 of the Act deals with the concept of 'just compensation' and the same has to be determined on the foundation of fairness, reasonableness and equitability on acceptable legal standard because such determination can never be in arithmetical exactitude. It can never be perfect. The aim is to achieve an acceptable degree of proximity to arithmetical precision on the basis of materials brought on record in an individual case..................The conception of 'just compensation' has to be viewed through the prism of fairness, reasonableness and non-violation of the principle of equitability...........The determination has to be on the foundation of evidence brought on record as regards the age and income of the deceased and thereafter the apposite multiplies to be applied....... It is a well accepted norm that money cannot substitute a life lost but an effort has to be made for grant of just compensation having uniformity of approach. There has to be a balance between the two

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extremes, that is, a windfall and the pittance, a bonanza and the modicum.

14. In the light of the aforesaid guidelines and parameters, this Tribunal has to assess the compensation to be awarded to the claimants/petitioners.

15. Age of the deceased was **45 years** on the date of the accident. In **Pranay Sethi (supra)**, Hon'ble Apex Court has held that the age of the deceased should be the basis for applying multiplier. Appropriate multiplier, as per '**Sarla Verma & Ors. Vs. Delhi Transport Corporation & Anr.**' [(2009) 6 SCC 121], is **14.**

16. **Income of deceased**: C.W.1, C.W.-2 and C.W.-3 categorically stated that the deceased Karu Yadav was running a business of milk and used to earn Rs. 160/- per day i.e. Rs. 4,800/- per month but there is nothing on record or any other document which could substantiate the claim of claimants regarding monthly income of deceased. In such circumstances, monthly income of deceased can be taken as Rs. 4,000/- per month and he was only child of his parents. In such circumstances, monthly income of deceased can be taken as **Rs. 4,000/- per month.**

17. **Dependents & deduction for personal and living expenses:–** Deceased was married as he left his wife, one son and one minor daughter. Thus, as per Sarla Verma's

case(supra), 1/3 (one third) of income of the deceased is to be deducted towards personal and living expenses. Hence, income of deceased is taken as Rs. 4,000/- per month (Rs.4,000/- minus 1/3 = **Rs. 2,667/-**).

18. **Future prospects**:- In '**Santosh Devi Vs. National Insurance Co. Ltd.**'[(2012) 6 SCC 421], Hon'ble Apex Court has not accepted as a principle that a self-employed person remains on a fixed salary throughout his life. It has taken note of the rise in the cost of living which affects everyone without making any distinction between the rich and the poor. In **Pranay Sethi (supra)**, it is held that 'to state that the legal representatives of a deceased who was on a fixed salary would not be entitled to the benefit of future prospects for the purpose of computation of compensation would be in apposite'. Hon'ble Apex Court has also discussed as to what should be the addition in the income of deceased towards the future prospects and concluded that 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. Since the deceased was aged **45 years** on the

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date of accident, there should be an increase of 25% in the income of deceased as per mandate of **Pranay Sethi (supra)**. Hence, income of deceased after increasing the same by 25% comes out to be (Rs. 2,667/– + 40% of Rs.2,667/–= 667/-) **Rs. 3,334/– per month**.

19. **Loss of Dependency**: In view of the above, the calculation of loss of dependency is as follows : Rs. 3,334/– X 12 X 14 = Rs. 5,60,112/–. In addition, petitioners are awarded amount of Rs.15,000/–, Rs.40,000/– and Rs.15,000/– towards loss of estate, consortium and funeral expenses respectively. Total compensation comes out to **Rs. 6,30,112/– (Rs. Six Lacs Thirty Thousand One Hundred Twelve Only).**

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<u>RELIEF</u>

20. I hereby award an amount of **Rs. 6,30,112/– (Rs. Six Lacs Thirty Thousand One Hundred Twelve Only)** as compensation with interest @ 7% per annum, from the date of claim petition till the date of realization of the amount in favour of the petitioners and against the Respondent No. 1 National Insurance Company Limited. Further the insurance company in case of breach of the provision of the M.V. Act can recover the claim for the breach of the policy if any from the driver or owner of the vehicle.

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21. **Share of petitioners in awarded amount**:

It is pertinent to mentioned here that petitioner No.-3 Reeta Kumari was aged about 15 years at the time of filing of this M.A.C.T. Case, so this petitioner is now become major. Hence, Petitioners will get 1/3rd of the compensation amount through account payee cheque.

Petitioner No. 1 (Shanti Devi, wife of the deceased): Rs.2,10,037/- (Rs. Two Lacs Ten Thousand Thirty Seven only),

Petitioner No. 2 (Sanjay Prasad, son of the deceased): Rs.2,10,037/- (Rs. Two Lacs Ten Thousand Thirty Seven only),

Petitioner No. 3 (Reeta Kumari, daughter of the deceased): Rs.2,10,037/- (Rs. Two Lacs Ten Thousand Thirty Seven only),

22. All the payments shall be made through A/c payee cheque on the name of claimants. If any interim relief given to petitioner during pendency of trial or prior to initiation of trial same will be deducted from compensation granted to the petitioners.

23. It is pertinent to mentioned here itself regarding the payment of court fee by the claimant, it was crystal clear by the Hon'ble High Court of Judicature at Patna in ***Miscellaneous Appeal No.-419/2013 dated 24.01.2017***,

(M/S United India Insurance Company Limited Vs. Most. Mangli Devi & Ors.) wherein :-

"28.......the amount of court fee payable in terms of Rule 227 shall be added in the memo of cost to be prepared and shall be recoverable from the tortfeasor. Once the amount of compensation and the cost is deposited, the amount of cost will stand appropriated to the State and the remaining amount shall be paid to the claimants, but calling upon the claimants at the first instance and then to recover from the tortfeasor actually multiplies the burden of the claimants, that will be the just and equitable reading of Rule 227.

29. Thus, it is held that the expression 'judgment' and 'award' are inter changeable and that the Tribunal shall announce award on completion of inquiry, which shall be executable and appealable. The amount of court fee shall be affixed by the tortfeasor, which would be recoverable as arrears of land revenue along with the amount of compensation in terms of Section 174 of the 1988 Act."

Dictated and corrected by me.

Ashutosh Kumar Jha

Motor Accidents
Claims Tribunal
-cum-
Principal District Judge,
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Ashutosh Kumar Jha

(Ashutosh Kumar Jha)
Motor Accidents
Claims Tribunal
-cum-
Principal District Judge,
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