

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

MACT/M.V. Case No. 80/2015

[Rajuli P.S. case No.-120/2015]

Fatal Case

1. Lalita Devi, age - 30 years
W/O Late Dharmendra Manjhi
 2. Sohri Devi, age - 50 years
S/O Ganesh Manjhi
 3. Ganesh Manjhi @ Ganeshi Manjhi, age - 55 years
S/O Late Prayag Manjhi
 4. Sajna Kumari, age - 08 years
D/O Late Dharmendra Manjhi
 5. Ranjana Kumari, age- 06 years
D/O Late Dharmendra Manjhi
 6. Roshni Kumri, age- 04 years
D/O Late Dharmendra Manjhi
- Applicant No. 4, 5 and 6 who are minors are under the
legal guardianship of their mother Applicant No. 1.

All R/O Vill.-Shahpur, P.S.- Sirdala,
Distt.-Nawada(Bihar)

..... **Claimants/Applicants**
Versus

1. The Branch Manager,
National Insurance Company Limited
Rajendra Nagar, Nawada.
2. Binod Prasad S/O B. Yadav
R/O Village- Panchpara, P.O- Radhadassi, P.S- Sankraul,
Howrah.
(Owner of Tanker Bearing Reg. No. WB-11B-9991)



3. Amrik Prasad Yadav S/O V.P Yadav,
R/O Vill- Nabutanganj, P.S. and Distt.- Burdwan
(Driver of Tanker Bearing Reg. No. WB-11B-9991)
(Insurer of Tanker Bearing Reg. No WB-11B-9991 vide Policy No.
153501/31/14/63/00009781 Valid from 09.10.2014 to 08.10.2015)

..... **Opposite Parties**

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

Learned Counsel for the O.P. No.-1- Sri Satish Chandra
Singh Ld. Adv.

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

Date of judgment: 07.04.2026

Present:- Ashutosh Kumar Jha
Motor Accidents Claims Tribunal
-cum-
Principal District Judge, Nawada
07-04-2026

J U D G M E N T

1. Present claim petition under Section 166/140 of Motor Vehicle was filed by the petitioners Lalita Devi, Sohri Devi, Ganesh Manjhi @ Ganeshi Manjhi, Sajna Kumari, Ranjana Kumari and Raushani Kumari, legal heirs of the deceased namely Dharmendra Manjhi (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 29.05.15 at about 10 P.M night, deceased Dharmendra Manjhi was going his residence from Sirdala bus stand by sitting in Tanker bearing registration No. WB-11B-9991, herein after referred as offending vehicle and when the said tanker/offending vehicle reached near chimni

bhatta at Dularpura then due to rash and negligent driving of said tanker/offending vehicle, the tanker/offending vehicle turned down and due to this deceased Dharmendra Manjhi sustained injury and died during treatment. The deceased was a mason and he used to earn Rs. 15,000/- per month.

3. Rajauli P.S. Case No. -120/2015 dated 30.05.2015 under Sections 279//337/338/304(A) IPC got registered at Police Station Rajauli, District Nawada. Police conducted the investigation. After due investigation, the police submitted final form against driver of Tank Lorry bearing Regn. No.-WB-11B-9991.

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.

Despite several notice and registered notice to the O.P. No.-2 Binod Prasad (Owner of vehicle) and O.P. No.-3 Amirak Prasad Yadav (Driver of vehicle) but both have not appear in this case, hence, on 10.04.2023 the court has passed an order of ex-parte against O.P. No.-2 & 3.

5. Following issues were framed by this Tribunal on 26-06-2023:-

- (i) Whether the claim case as framed is maintainable or not?
- (ii) Whether the accident took place on dated 20-05-2015 at 10 P.M, near India Chimni Bhatta by bearing offending vehicle Tankar No. WB-11B-9991 causing the death of Dharmendra Manjhi?
- (iii) Whether the above said vehicle was insured at the time of alleged accident?
- (iv) Whether the driver at the said offending vehicle have a valid driving license and permit at the time of alleged accident?
- (v) Whether the driver of the said offending vehicle was driving very rashly & negligently at the time of alleged accident?
- (vi) Whether the claimant are the legal heirs of the deceased and



entitled to compensation as the account of aforesaid the death of deceased Dharmendra Manjhi in the accident and if so then, to what amount and from whom?

6. During evidence, C.W.1 Lalita Devi is claimant herself who deposed that on 29.05.2015 her husband Dharmendra Manjhi was coming at his house by Tanker Lorry bearing Regn. No.-WB-11B-9991 after convincing the driver of the said lorry and her husband was sitting inside the cabin of the tanker vehicle. When the vehicle reached near brick- kiln of village Dularpur at about 10:00 P.M. then the said Tanker was overturned resulting her husband Dharmendra Manjhi got badly injured and succumbed to his injury during treatment. She further deposed that her deceased husband Dhamrendra Manjhi was aged about 35 years and was working as mason from last ten years and used to earn Rs. 15,000/- per month from which her family was getting
fed.



C.W.-01 deposed in her cross-examination that her deceased husband was sitting on trailer and trailer was overturned due to which her husband died. She didn't know where the accident took place or from which vehicle accident took place. She also has no knowledge about the registration number of vehicle from which her husband was died. She further states that her brother informed her that the

deceased was travelling on Oil tanker. She further deposed that her deceased husband was working as mason and used to earn Rs. 500/- daily and Rs. 15,000/- per month and in this regard she has not filed any document before this court. She has also no knowledge the age of her husband at the time of accident.

C.W.-02 Anil Kumar who is eye-witness to the accident, deposed in his affidavit-Cum-examination-in-chief as deposed by the C.W.-01.

During cross-examination C.W.-02 deposed that accident took place on 29.05.2015 at about 10:00 P.M. and on that time the deceased was returning his house after his work and due to negligence of driver the tanker vehicle was overturned. He further deposed that the deceased was travelling inside the cabin. He further states that he received information about the accident from other person and the deceased was aged about 35 years who died on the spot. The deceased was working as mason and used to earn Rs. 500/- per day.

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 Rajauli P.S. Case No.-120/2015

2.	Mark X	Photocopy of Owner Book
3.	Mark X/1	Photocopy of Insurance paper
4.	Mark X/2	Photocopy of Driving License of Amrik Prasad Yadav
5.	Mark X/3	Photocopy of Tax Token
6.	Mark X/4	Photocopy of permit
7.	Mark X/5	Photocopy of Post-Mortem Report
8.	Mark X/6	Photocopy of Certified Copy of order sheet of lower court from dated 01-06-2015 to 02-07-2015

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.

10. Documents filed on behalf of O.P. No.-1 and the same has been marked as exhibits:-

Sl. No.	Exhibit No.	Description of exhibit
1.	Ext.-A	Investigator report of investigated by Ranveer Kumar on dated 11-04-2016

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

Issue No. 1, 2, 3, 4 & 5:-

12. The issue No. 1, 2, 3, 4 & 5 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 A 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.”

13. As per above discussion, it is proved on record that the deceased suffered fatal injuries due to rash and negligent driving of Amirak Prasad Yadav who was driving the



offending Tanker Lorry bearing Regn. No.- WB-11B-9991 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 the husband of Claimant No. 1 Dhamendra Manjhi along with other persons took the seat in the tanker having registration no. WB-11B-9991 at Rajauli Sirdalla bus stand for going their house and when the offending vehicle reached near to Dularpur brick kiln then due to rash and negligent driving of said offending vehicle, the offending vehicle overturned and due to this deceased sustained injury and was admitted in the Sadar Hospital, Nawada and died during treatment. The post-mortem report (Ext-Mark-X/5) is also available on the record and on perusal of the same, cause of death is shown shock hemorrhage due to hard blunt substance. Further Ext.-Mark-X/1 (Insurance Policy paper) also shows that the offending vehicle was duly insured with O.P. No. 1 vide policy No. 153501/31/14/6300009781 and the period of validity is from 09.10.2014 to 08.10.2015. Further Ext.-Mark-X/6 order-sheet of Rajauli P.S. Case No.- 120/2015 also shows that respondent No.-3 Amirak Prasad Yadav surrendered before Ld. Magistrate, Nawada as driver of the offending vehicle respondent No.-2 Vinod Prasad Yadav also filed a release petition of the offending vehicle Tanker Lorry bearing Regn. No.-WB-11B-9991 as owner of the vehicle. Accordingly, issues No. 1, 2, 3, 4 & 5 are decided in favour of the petitioners and against the Respondent No. 1



National Insurance Co. Ltd.

Issue No. 6 (Compensation):-

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

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

16. Age of the deceased was **36 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 **15**.

17. **Income of deceased:** C.W.1 & C.W.-2 categorically stated that the deceased Dharmendra Manjhi was working

as mason labour and used to earn Rs. 15,000/- 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 the deceased can be taken as per minimum wages prevalent at the time of the accident, monthly income of the deceased can be taken as per minimum wages of unskilled workman in Bihar at the time of the accident (29.05.2015). Minimum wages of Bihar is categorized on the basis of the skilled and the unskilled workers at the time of the accident, minimum wages for a unskilled workman for most industries in Bihar was Rs.194/- per day or **Rs.5,820/- per month.**

18. Dependents & deduction for personal and living

*1/4th
07/04/2016*
expenses:- Deceased was married as he left his parents alongwith his wife and three minor daughters. Thus, as per Sarla Verma's case(supra), 1/4 (one fourth) of income of the deceased is to be deducted towards personal and living expenses. Hence, income of deceased is taken as Rs.6,180/- per month (Rs.5,820/- minus 1/4 = **Rs. 4,365/-**).



19. 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 **36 years** on the date of accident, there should be an increase of 40% in the income of deceased as per mandate of **Pranay Sethi (supra)**. Hence, income of deceased after increasing the same by 40% comes out to be (Rs. 4,365/- + 40% of Rs.4,365/- = 1,746/-) **Rs.6,111/- per month.**



20. **Loss of Dependency:** In view of the above, the calculation of loss of dependency is as follows : Rs.6,111/- X 12 X 15 = Rs.10,99,980/-. 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. 11,69,980/- (Rs. Eleven Lacs Sixty Nine Thousand Nine Hundred Eighty Only).**

RELIEF

21. I hereby award an amount of **Rs. 11,69,980/- (Rs. Eleven Lacs Sixty Nine Thousand Nine Hundred Eighty Only)** as compensation with interest @ 9% per annum, from the date of judgment 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.

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

It is pertinent to mentioned here that petitioner No.-4 Sajna Kumari was aged about 08 years at the time of filing of this M.A.C.T. Case, so this petitioner is now become major and petitioner No.- 5 and 6 (Ranjana Kumari and Roshani Kumari) are minor daughters of the deceased respectively, petitioner No.-1 Lalita Devi is directed to separately open joint account with petitioner No.-5 and 6 to and when petitioner No.- 5 & 6 will become major (18 years) then they will withdraw compensation money and before that



compensation money will be transferred into the separate account of petitioner No.-5 & 6 and in case of any emergency duly supported by medical documents successor court on the joint application of petitioners may order to release money prior to achieving majority by petitioner No.-5 & 6. Hence, Petitioners will get 1/6th of the compensation amount through account payee cheque.

Petitioner No. 1 (Lalita Devi, wife of the deceased):
Rs.1,94,996/- (Rs. One Lac Ninety Four Thousand Nine Hundred Ninety Six only),

Petitioner No. 2 (Sohari Devi, mother of the deceased):
Rs.1,94,996/- (Rs. One Lac Ninety Four Thousand Nine Hundred Ninety Six only),

Petitioner No. 3 (Ganesh Manjhi @ Ganeshi Manjhi, father of the deceased):
Rs.1,94,996/- (Rs. One Lac Ninety Four Thousand Nine Hundred Ninety Six only),

Petitioner No. 4 (Sajna Kumari, daughter of the deceased):
Rs.1,94,996/- (Rs. One Lac Ninety Four Thousand Nine Hundred Ninety Six only),

Petitioner No. 5 (Ranjana Kumari, minor daughter of the deceased):

Rs.1,94,996/- (Rs. One Lac Ninety Four Thousand Nine Hundred Ninety Six only),



Petitioner No. 6 (Roshni Kumari, minor daughter of the deceased):

Rs.1,94,996/- (Rs. One Lac Ninety Four Thousand Nine Hundred Ninety Six only),

23. 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.

24. 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,
Nawada
07.04.2026

Ashutosh Kumar Jha
(Ashutosh Kumar Jha)
Motor Accidents
Claims Tribunal
-cum-

Principal District Judge,
Nawada
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