

District- Godda

IN THE COURT OF DISTRICT JUDGE-V-CUM- M.A.C.C.,
GODDA

Present:- Niraj Kumar Vishwakarma

Distt. Judge-V-cum-M.A.C.C.

Godda

Dated, Godda, the 07th July, 2026

Motor Accident Claim Case No. 92/2023

1. Khushbu Kumari , aged about 35 years

W/o Madan Kumar Mandal(wife of deceased)

2. Simran Kumari, aged about 11 years

3. Soyam Kumar, aged about 9 years

Claimant no.2 & 3 are minor daughter and son of deceased represented through their legal guardian and mother Khushbu Kumari (claimant no.1)

R/o village- Ghatpaharpur, P.S.Godda(M), Distt.Godda

..... **Claimants/Plaintiff.**

- V E R S U S -

1.Rajesh Kumar S/o Prasadi Kumar

Owner of Hf Deluxe Motorcycle no. JH17Z/0658

Engine no. HA11EXNHG00226

Chassis no. MBLHAW104NHG00226

Village-Simratari, ward no.7, P.O.+ P.S. + Distt. Godda

2. Tata AIG General Insurance Company Ltd.

2nd Floor,MR Tower, Line Tank Road, Ranchi-834001

3. Gayatri Devi W/o Satyanarayan Mandal(mother of deceased)

4. Satyanarayan Mandal S/o late Heralal Mandal (Father of deceased)

R/o O.P. no.3 & 4 are village-Ghatpaharpur, P.S.Godda(M), Distt.Godda.

.....O.P.s

Counsel for the Claimants :- Sri Om Prakash Kapri, Adv.

Counsel for O.P. No. 1 :- Smt. Gauri Priya, Adv.

Counsel for O.P. no.2 :- **Sri Nikhil Kumar Jha, Adv**

Counsel for O.P. No.3 :- Sri Ajay Kumar Jha, Adv.

A W A R D

The claimants have filed the instant case u/s 166 of M.V.

Act for lump-sum compensation amount to the tune Rs.28,35,448/-(Rs.

Twenty eight lacs thirty five thousand four hundred forty eight only) along with interest in respect of death of Madan Kumar Mandal (hereinafter referred to as the deceased) in vehicular accident involving motorcycle bearing registration no. JH 17Z/0658 owned by O.P. No. 1 insured with O.P. No. 2 Tata AIG General Insurance Company Ltd. Vide insurance policy no. 3195044167/000000/00 Valid from 01.09.2022 to 31.08.2027.

2. The claimant no.1, 2 & 3 are wife, minor daughter and minor son of the deceased respectively and O.P. no.3 & 4 are mother and father of deceased.

3. On 14.06.2023 the deceased Madan Kumar Mandal was going to Adani Power Plant at Motiya, Godda for his duty by motorcycle. When he reached Vidya Bharti School situated near Simratari Bridge at about 7.20 am, a Hero HF Delux4 motorcycle no. JH17Z/0658 which was being driven rashly and negligently by its driver, came on extreme wrong side and dashed the Madan Kumar Mandal. As a result he sustained serious injuries and was admitted to Godda hospital and for his better treatment he was referred to Mayaganj Hospital, Bhagalpur and from there he was referred to Patna but he died at about 14.30 P.M., hence this present case.

4. It has been put forward that the deceased was the husband of claimant no.1 and also the deceased was the father of claimant no.2 & 3. Deceased was the son of O.P. no.3 & 4. Due to accidental death a great financial loss caused to the claimants & O.P. no.3 & 4. The deceased was a Semi Skilled labour in GJ Insutations Pvt. Ltd 204/212, 2nd floor, Nadladwala Market, Poddar road, Mumbai and he used to earn Rs. 14,632/- per month and according to law the claimants & O.P. no.3 & 4 are entitled to get the

compensation as claimed along with interest from the filing of the claim case. On this factual background Rs.28,35,448/-(Rs. Twenty eight lacs thirty five thousand four hundred forty eight only) along with interest has been claimed as compensation.

5. The owner & insurer of vehicle of deceased have been arrayed as opposite parties no. 1 & 2 and O.P. no. 3 & 4 are mother & father of deceased respectively. In pursuance to the issuance of notice O.P. No. 1 and O.P. no.3 & 4 appeared on 28.05.2024, in which O.P. no.3 & 4 filed written statement on the same day but O.P. no.1 did not file written statement, hence debarred from filing written statement on 17.04.2025. O.P. no.2 appeared on 17.04.2025 and debarred from filing written statement, due to non-filing of written statement on fixed date.

6. **Written Statement on behalf of O.P. no. 2 & 3**

Ld. Counsel on behalf of O.P. no.2 & 3 submitted that in the above case, O.P. no.3 is mother of deceased and O.P. no.4 is father of deceased and this case has been filed by daughter in law and grand children of O.P. no.3 and 4. It is further stated that O.P. no.3,4 want their separate share in the amount that will be awarded in the above case. The petitioner's claim is correct.

7. **On the basis of the pleadings of the parties following issues have been framed for the determination :**

ISSUES

- I. Whether the claim petition as framed is maintainable ?
- II. Whether the deceased Madan Kumar Mandal died in a vehicular accident caused by offending vehicle Motorcycle Registration No. JH-17Z-0658 who

dashed with the Motorcycle no. JH-17M-3153 on which deceased was riding at the time of accident ?

III. Whether the driver of the offending vehicle i.e. Motorcycle no. JH 17Z-0658 was having valid and effective driving licence on the date of accident ?

IV. Whether the offending vehicle was duly insured and whether the terms and conditions of the Insurance policy was violated ?

V. Whether there was contributory negligence of the deceased Madan Kumar Mandal in the accident ?

VI. Whether the claimants are entitled for compensation, if yes, from whom and what extent of amount ?

VII. Whether the claimants are entitled for any other relief or relieves ?

8. In order to support its claim, claimants have examined altogether three witnesses they are :-

C.W. 1	Khushbu Kumari(claimant no.1 herself)
C.W. 2	Ajay Kumar Sah

C.W.1 Khushbu Kumari, who is the claimant in this case and deposing evidence herself. Deceased Madan Kumar Mandal, aged about 39 years was her husband. He was working as Semi Skill labour in GJ Insulation Pvt. Ltd under Adani Power Plant,Motiya, Godda, from the same he was earning per month Rs.14632/- and they were dependent upon him. Occurrence occurred on 14.06.2023 in the morning between 6.40 a.m. to 7.20 a.m., her husband was going on his duty by motorcycle to Adani Power Plant, Motiya, in the meantime near village Simratari Bidhya Bharti School , a motorcycle bearing no. JH17Z 0658 was coming rashly and negligently by driving it's driver from wrong side and dashed to her husband, due to which her husband become serious injured. Her husband was referred to Mayaganj hospital, Bhagalpur, from there referred to Patna and at about 2.30 p.m. he died.

Postmortem of her husband was done at Sadar Hospital, Godda. In this case the original salary slip of May, 2023 is her husband's, her husband's monthly salary was Rs.14,632/-, Salary slip issued by GJ Insulation Pvt. Ltd., Mumbai, on which signature & mohar of Authorized signatory and other assistant is present, she identified the same. Salary slip was prepared before her. Original I.D. card of her husband filed in this case, which was issued by GJ Insulation Pvt. Ltd. Under Adani Power, Godda Jharkhand, which she identifies the same marked as Ext.2. She has got no money in this case. Her claim is correct.

During cross-examination on behalf of O.P. no.2 she stated that the original I-card of her husband, produced by GJ Insulation Pvt Ltd under Adani Power Plant, Godda, Jharkhand, is on record and she recognizes it and it is marked as Exhibit-1 with objection. The original salary statement certificate on record is for her husband, Madan Kumar Mandal, dated May 19th. At the time of the incident, her husband's salary was ₹14,632. The salary slip was issued by the authorized signatory of GJ Insulations Pvt. Ltd. and his assistant, and bears the official's initials and seal. She recognizes this certificate as having been prepared in her presence. It is marked with objection as Exhibit-2. The original bank passbook of the State Bank of India, Godda branch, belonging to her husband, is filed on record. The same is marked with objection as Exhibit -3. She cannot tell the number of the motorcycle that was being driven by her husband and the name of its insurance company and she has not seen its papers either. She became aware of the incident 10 minutes after it occurred. She was informed about it by Shishupal. She did not see the incident in her presence. She can not state the name or number of the driver of the motorcycle that caused the accident. She has not seen its documents

either. She does not remember the date of filing of the claim. She does not know who she has named as a party to this case. After her husband's death, no one has been appointed to replace him. Her husband studied up to B.A. She can not tell her husband's date of birth. She denied the suggestion that her husband was 45 years old at the time of the incident and she is knowingly concealing this fact. She can not reveal the name of the official who signed the pay slip. She has no personal knowledge of what is written in its columns. She denied the suggestion that her husband himself met with an accident while riding a motorcycle and deliberately implicated another vehicle and made a false claim.

C.W.2 Ajay kumar Sah, stated in his examination in chief that he knows the claimant of this case and deposing his evidence from the side of claimant. He was knowing to deceased Madan Kumar Mandal, aged about 39 years. He was working as Semi Skill labour in GJ Insulation Pvt. Ltd under Adani Power Plant, Motiya, Godda, from the same he was earning per month Rs.14632/- and his family were dependent upon him. Occurrence occurred on 14.06.2023 in the morning between 6.40 a.m. to 7.20 a.m., deceased was going on his duty by motorcycle to Adani Power Plant, Motiya, in the meantime near village Simratari Bidhya Bharti School, a motorcycle bearing no. JH17Z 0658 was coming rashly and negligently by driving it's driver from wrong side and dashed to Madan Kumar Mandal, due to which he become serious injured and died. The claim of the claimant is correct.

During cross-examination on behalf of O.P. no.2 he stated that Khushbu is his cousin. He doesn't know how much money Khushbu has claimed. She doesn't know who Khushbu has made the opposition party in

this case. He has not seen documents and the insurance papers of the motorcycle. He can not state the date of birth of the deceased Madan Kumar Mandal. He can not state the motorcycle number. Khushbu Kumari knows the details of the claim. He does not have personal information related to the claim.

9. The claimants have brought on record following documents in support of their case. These documents have been marked exhibits without objection:

Ext.01	Identity card of Madan Kumar
Ext.02	Original Salary slip
Ext.03	Original Pass-book
Ext.04	Certified copy of F.I.R. of Godda(M) P.S. case no.106 dt.15.06.2023, U/Ss 279, 304A of I.P.C.
Ext.05	Certified copy of charge sheet no.16/2023 dt.02.10.2023, U/S 279, 304A of I.P.C.
Mark-01	Photo copy of Tax-Invoice
Mark-02	Photo copy of driving license
Mark-03	Photo copy of insurance policy
Mark-04	Photo copy of death certificate
Mark-05	Photo copy of postmortem report

10. In pursuance to the issuance of notice O.P. No. 1 and O.P. no.3 & 4 appeared on 28.05.2024, in which O.P. no.3 & 4 filed written statement on the same day but O.P. no.1 did not filed written statement, hence debarred from filing written statement on 17.04.2025. O.P. no.2 appeared on 17.04.2025 and debarred from filing written statement, due to none filing of written statement on fixed date. No witnesses or documentary evidences have been produced by the O.P..

FINDINGS

11. Learned counsel on behalf of claimants submitted during argument that the claim of the claimants are proper and as per law and the occurrence had happened due to the rash and negligent act of driver of motorcycle and the vehicle was under the insurance policy and the liability to indemnify lies upon the insurance company i.e. O.P. no.2.

Further he submitted that the claimants have proved their case and prayed to award compensation to the claimant.

12. Learned counsel on behalf of opposite party submitted that the claimants are not entitled to get any compensation from the O.P. as the deceased was a Semi Skilled labour in GJ insutationsPvt. Ltd. And in support of the same Claimants have also not deposited any valid documents regarding his work. Lastly he submitted to dismiss the claim of the claimants.

13. I have heard the arguments on behalf of the parties and carefully examined the pleadings, evidence and the materials on the record. Before embarking upon the issues settled for adjudication I need to discuss the settled legal propositions governing the case of this nature.

It is well settled that when a petition u/s 166 of M.V. Act is instituted it becomes the duty of the claimant to establish rash and negligent driving and to prove rash and negligent driving in the petition under Motor Vehicle Act, the Tribunal need not to go into the technicalities because strict rule of procedure and evidence are not followed. In road accident cases, the tribunal simply to quantify the compensation which is rational and reasonable on the basis of injury / death. Besides the proceeding under M.V. Act are not akin to proceedings in civil suit.

14. On the basis of the evidence both oral and documentary the issues are adjudicated as hereunder:

15. Issue No. I & II

So far as Issue **no.-I** the maintainability of this case is concerned, the claimant no.1 wife, claimant no.2 & 3 are minor daughter and son of the deceased, O.P. no.3 & 4 are mother and father of deceased and being legal heirs of the deceased, hence claimants have instituted this case for getting the reliefs as mentioned in the petition and they have a right to claim in the present act, hence the case is maintainable in present form.

So far as the matter of Issue **no.II** about accident is concerned, the claimants in their claim petition specifically stated that the accident has occurred on 14.06.2023 due to rash and negligent act of the driver of the motorcycle bearing Reg. no. JH 17Z/0658 and the claimant no.1 in their affidavit stated that the occurrence took place due to rash and negligent driving of driver, who was driving the above mention motorcycle and in support of this fact the claimant has exhibited the certified copy of F.I.R. of Godda(M) P.S. case no. 106/2023, U/Ss 279/304-A of I.P.C. against the driver of offending vehicle marked as Ext.-04 and after investigation of the case the police submitted charge sheet against driver having charge sheet no. 16/2023 U/Ss 279/304-A I.P.C., finding the case true against him and the same was marked exhibit-05, which is certified copy of charge sheet and this fact was also stated by C.W.1 & C.W.2 and both the witnesses stated in their affidavit that the occurrence took place due to rash and negligent act of driver of the said vehicle, though in cross they were not able to describe the name of

the driver and number of the vehicle but the claimant through documentary proofs proved this fact properly.

Hence the Issue no.I & II are decided in favour of claimants.

16. Issue No. III and IV

So far as the Issue **no.III** about driving license at the time and date of occurrence is concerned. The claimants have proved document that the driving license which mark as Mark-02 the driving license belongs to Ravindra Singh against whom the charge sheet has been submitted in Godda(M) P.S. case no.106/2023 being the driver of the motorcycle bearing Reg. no. JH-17Z/0658 and nothing came on record to prove any kind of inconsistency about the genuineness of the documents.

So far as the issue **no.IV** about insurance and violation of policy is concerned. The claimant exhibited the Mark-03, which is Xerox copy of insurance policy, which shows that the said vehicle was insured with O.P. no.2 Tata AIG General Insurance Company Ltd. and on perusal of the same, it appears that the policy having policy no. 3195044167/000000/00 of the offending vehicle with the period of validity from 01.09.2022 to 31.08.2027 is available on record and the date of occurrence is mention as 14.06.2023 hence at the date of occurrence the vehicle was insured with O.P. no.2 , which shows that the vehicle was having proper documents at the date of occurrence , hence no terms and conditions of policy has been violated.

Accordingly, these Issue no.III and IV are decided in favour of claimants.

Issue no.V

So far as the Issue of contributory negligence on part of driver of motorcycle in which the deceased was boarded is concerned, the driver of the motorcycle is not made accused in the F.I.R. as well as after investigation police submitted charge sheet against only the driver of Motorcycle bearing Reg. no. JH 17Z/0658 namely Ravindra Kumar finding him committed the offence. Now it was the duty of O.P. no. 2 to prove this fact that the accident occurred due to negligent act of the driver of motorcycle bearing Reg. no. JH-17M-3153 but in this regard except mentioning it in written statement neither any oral evidence nor any documentary evidence adduced by the O.P. no. 2 which shows that no fact of contributory negligent act proved by the Insurance company. **Accordingly, the Issue no.V is decided in favour of the claimants.**

17. Issue no.VI & VII

So far as the matter of issue **no.VI & VII** are concerned these issues are regarding the entitlement of claimant regarding compensation and reliefs, It is most important to discuss the decision of Hon'ble Apex Court passed in **Smt. Sarla Verma and Ors. Vrs. Delhi Transport corporation and Anr. (Civil Appeal No. 3483 of 2008 dt. 15th April, 2009)**. The two-Judges-Bench of Hon'ble Apex Court has endeavoured to simplify the otherwise complex exercise of assessment of laws of dependency and determination of compensation in a claim made u/s 166 of M.V. Act that the *claimants in case of death claim for the purposes of compensation must establish;*

- (a) Age of the deceased**
- (b) Income of the deceased, and**
- (c) Number of dependents of the deceased**

Tribunal must consider;

- (i) Additions / deductions to be made for arriving at the income**
- (ii) The deduction to be made towards the personal living expenses of the deceased, and**
- (iii) The Multiplier to be applied with reference to the age of the deceased.**

(a) Age of the deceased :- In this regard the plaint mentions it as 38 years and on perusal of the postmortem report (Mark-05) It is apparent that at the date of accident the deceased was 38 years old. Hence considering the said postmortem report the age of the deceased on the date of occurrence i.e. 14.06.2023 would be 38 years.

(b) Income of the deceased:- Claimants have stated the income of deceased as Rs.14,632/- per month being Semi Skilled labour in GJ Insutations Pvt. Ltd. 204/212, 2ndfloor, Nadladwala market, Poddar road,Mumbai **but no sufficient documentary proof of income of the deceased has been produced and in absence of any documentary proof the counsel of claimants have submitted the order issued by the Department of Labour, Employment , Training and Skill Development of Jharkhand Government wherein the non-skill labour charges as monthly income in the period of accident in year,2023 is mentioned as Rs.10,992.45 and it is also true that a person can not work 24x 7 day of the month. In this circumstances in light of that order approximately monthly income of the deceased is decided as Rs.11,000/- per month.-.**

(c) Number of dependents :- As far as the number of dependent are concerned, the claimants have claimed themselves to the dependent/legal heirs of the deceased being wife and minor children. O.P. no.3 & 4 are mother &

father of the deceased, also made party in this case as dependent/legal heir of the deceased. There is five dependent/legal heirs of the deceased as per the plaint and the O.Ps. have not been successful to put any doubt regarding the aforesaid person as the dependent/legal heirs of the deceased except mentioning it in written statement.

(i) Additions / deductions to be made for arriving at the income :- As the deceased was around 38 years of age and his job was not of salaried category. he was self employed. Therefore, 40% of his income would be added under this head in the light of the Hon'ble Apex Court's judgment in National Insurance Company Ltd., -vrs- Parnay Sethi & others.

(ii) The deduction to be made towards the personal living expenses of the deceased;

In order to decide this point it is most important to discuss the decision of Hon'ble Apex Court in the case of **Sarla Verma & Anrs. Vrs. Delhi Transport Corporation and Anr.** (Civil Appeal No. 3483 of 2008 dt. 15.04.2009) **(2009) 6 SCC 121**. The deduction towards the personal and living expenses of the deceased should be 1/4th as there are five dependents/legal heirs of the deceased. Hence, this deduction will be 1/4th.

(iii) The Multiplier to be applied with reference to the age of the deceased.

In order to decide the multiplier as per the decision of Hon'ble Apex Court passed in **National Insurance Company Ltd. Vrs. Pranay Sethi** It has been held that as far as the multiplier is concerned the claims tribunal and the courts shall be guided by step -2 that finds place in paragraph -19 of **Sarla Verma Case** read with paragraph- 42 of the said judgment The multiplier of 18 (for the age group of 15 to 20 and 21 to 25 years), reduced by

one unit for every five years, multiplier 17 for 26 to 30 years, multiplier 16 for 31 to 35 years and multiplier 15 for 36 to 40 years, Multiplier 14 for 41 to 45 years, multiplier 13 for 46 to 50 years, then it reduced by two units for every five years i.e. multiplier 11 for 51 to 55 years, multiplier 9 for 56 to 60 years, multiplier 7 for 61 to 65 years and multiplier 5 for 66 to 70 years.

Hence, in this case the multiplier 15 would be applicable since the deceased was 38 years old at the time of accident.

I find that the deceased was the husband of claimant no.1 and father of claimant no.2 & 3 and son of O.P. no.3 & 4. Hence the claimants are entitled to get the reliefs.

In view of judgment passed in case of National Insurance Company -vrs- Pranay Sethi 2017-(4) JLJR SC 275, 40% of his income is required to be added in the compensation amount and Rs. 15,000/-, 40,000/- and 15,000/- should be given on conventional heads namely loss of estate, loss of consortium and funeral expenses. Therefore, the amount of compensation will be given as per the chart below:-

i.CALCULATION TABLE

Monthly income of the deceased	Rs. 11,000/- per month.
Yearly income of the deceased	Rs.11000/- x 12=Rs. 1,32,000/- p.a
Deduction towards personal expenses	1/4 of Rs. 1,32,000/- = Rs. 33000/-
Income after deducting personal expenses	Rs. 1,32,000/- – Rs. 33,000/- = Rs. 99,000/- P.a.
Future prospect (in view of Judgment of Pranay Sethi case)	40% of Rs.99000/- = Rs.39600/-
Total income for the purpose of	Rs.99000/- + Rs.39600/- =

computation of compensation amount	Rs.1,38,600/-
Multiplier i.e. 15	Rs.1,38,600/-X 15 = Rs.20,79,000 /-
Total amount of compensation under the head of “funeral expense and loss of estate”	Rs.15,000/- + Rs.15,000/-=Rs. 30,000/-
Loss of consortium	Rs. 40,000/-
Grand Total	Rs. 21,49,000/-

Accordingly, these issues are decided in favour of the claimants and

ORDER

18. It is therefore, ordered that **O.P. No. 3, Tata AIG General Insurance Company Ltd.** shall satisfy the award by depositing the awarded amount of **Rs. 21,49,000/- (Rs. Twenty one lacs forty nine thousand only)** along with **interest @ 7.00 % per annum** within **90 days** from the date of filing of the claim petition till the date of realization through cheque of Rs.12,49,000/- in the name of **claimants no.1 Khushbu Kumari** & through cheque of Rs. 3,00,000/- (each child i.e. Rs.300000/-+Rs.3,00000/-= Rs.6,00,000/-) in the name of claimant no.2 namely **Simran Kumari**(Rs.3,00,000/-) and claimant no.3 **Soyam Kumar**(Rs.3,00,000/-) and through separate cheque of **Rs.1,50,000/-each [i.e. total Rs.1,50,000/-(O.P.no.3)+ Rs.1,50,000/-(O.P. no.4)= Rs.3,00,000/-]** to **O.P. no.3** namely **Gayatri Devi (mother of deceased)** and **O.P. no.4** namely **Satyanarayan Mandal (father of deceased)** and in case of non-payment within the time of 90 days till the date of payment **O.P. No. 2** will have to pay interest @ 9% per annum till the date

of realization of the awarded amount failing which the claimants will be at liberty to realize the same through the process of the court.

It is further ordered that the interest @ 7% on the total amount of **Rs. 21,49,000/-(Rs. Twenty one lacs forty nine thousand only)** will be paid to the **claimants no.1 Khushbu Kumari**(wife of the deceased).

It is further ordered that the compensation amount awarded(Rs.3 lacs each) to the minor children namely **claimant no.2 namely Simran Kumari(Rs.3,00,000/-)** and **claimant no.3 Soyam Kumar(Rs.3,00,000/-)** shall be kept in the long term fixed deposit scheme in any nationalized bank in the name of claimant no.2 & 3 till attaining their age of majority. Further it is hereby ordered that in extreme emergency matter , the amount fixed in favour of the minor(claimant no.2 & 3) the amount can be withdrawn with the prior permission of the court in the interest of minor only.

19. The claimants are also hereby directed to deposit the deficit court fee if any at the time of taking payment of compensation amount.

**(Dictated, Corrected &
Pronounced by me in
open court)**

(Niraj Kumar Vishwakarma)
District Judge-V
-cum-
P.O.-M.A.C.C.
Godda
dt. 07.07.2026
JO CODE JH 00475

(Niraj Kumar Vishwakarma)
District Judge-V
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