District : East Singhbhum
JHJR010015162020

IN THE COURT OF DISTRICT JUDGE-V-CUM-MVACT, JAMSHEDPUR

Present: MANJU KUMARI,
DISTRICT JUDGE-V-CUM-MVACT,
JAMSHEDPUR

The 20th day of February, 2026

MOTOR ACCIDENT CLAIM CASE NO. 38 of 2020

CNR No. JHJR01-001516-2020

1. Harbans Kumar, S/o- Late Palakdhari Prasad, aged about 65 years
2. Nishan Kumar, S/o-Harbans Kumar, aged about 39 years
3. Ms. Namrata Kumari, D/o-Harbans Kumar, aged about 32 years

All are residents of UD-9B, 8th Phase, Adarsh Nagar, P.O. & P.S.- Sonari, Town Jamshedpur, District- East Singhbhum

..............Applicants

Vrs.

1. Johan Singh, S/o- Bideshi Singh, R/o- F-II, Ramdeo Bagan, P.O.& P.S.- Golmuri, Town Jamshedpur, District East Singhbhum (Owner of the offending vehicle bearing No. BR16L-9155)
2. Dinesh Kumar Singh, S/o- Budhiyar Singh, R/o- F-II, Ramdeo Bagan, P.O. & P.S.- Golmuri, Town Jamshedpur, District East Singhbhum (Driver of the offending vehicle bearing No. BR16L-9155)
3. The New India Assurance Company Ltd., Office at IMA Building Damodar Road, Sakchi, Jamshepdur

……………Opposite Parties

Sl. No.	**Details of the Case**	
1	Application filed on dated:-	22.02.2020

2	Application filed u/s :-	166 M.V. Act, 1988 (amended)
3	Issues framed on dated:-	17.12.2024
4	Evidence of the Applicant concluded on dated :-	21.04.2025
5	Evidence of O.P. concluded on dated:-	23.07.2025
6	Argument concluded on dated :-	29.01.2026
7	Record fixed for final Order/Judgment dated:-	29.01.2026
8	Date of Judgment dated:-	20.02.2026

Counsel appeared:-

For the applicants : Sri Ajar Kumar Sinha,.. Ld. Advocate

For the O.P. No.1 : Sri A.K. Jain, ……Ld. Advocate

For the O.P. No. 2 : Sri Sri Kewal Krishna,... Ld. Advocate

For the O.P No.3 : Sri Ravinder Kumar,… Ld. Advocate.

JUDGMENT

1. The present case has been initiated ,upon filing of the application filed by the applicants/,Claimants above named , who are legal heirs of Vidya Devi out of which the applicant No. 1 is the husband and the respondent No. 2 and 3 are their children aged about 39 and 32 respectively ,for seeking compensation of total amount of Rs. 15,04,000/- due to sudden death of the deceased Vidya Devi in road accident, met with an accident on dated 05.02.2013 and died on the same day during the treatment because of the injury sustained. The present application brought by the applicant u/s 166 M.V. Act (hereinafter referred as Act) on dated 22.02.2013.

The case of the parties:-

2. The case of the applicants in brief, is that on 05.02.13 at around

6.25 p.m. when the informants wife was walking with her friend and reached near Professional flat in Kadma Sonari link road a motorcycle vide registration no.: BR16L-9155 rashly and negligently driven by its driver dashed her wife Vidya Devi she sustained injury, fall down in the ground and got unconscious. The local people took her to T.M.H. hospital and during treatment she had been declared dead. He received the information about the occurrence from his neighbor. The informant believes that her wife died due to the rash and negligent driving of the above mentioned vehicle.

3. In this case the Opposite Party to the case that is O.P. No.1 the owner of the offending vehicle involved in the accident and O.P. No.2 driver of the offending vehicle has appeared. During the course of inquiry O.P. No.3 The New India Assurance Company Limited has appeared as added already to the case, since the vehicle in question is claimed to be insured by the owner of the offending vehicle, who has also appeared in this case and filed their show-cause.

4. The case of the O.P. No.1, who is owner of the offending vehicle, is that the present proceeding as filed by the applicants under section 166 of the M.V. Act, is not maintainable either in law or in facts and the same is liable to be dismissed and in the entire pleadings, the applicants have failed to substantiate that how they are related with the deceased and in what manner and they have not filed a chit of paper in this connection and in result the present proceeding is liable to be dismissed. Further, the applicants have not filed any documentary evidence order to confirm the

fact that the deceased was earning Rs. 12,000/- (Rs. Twelve thousand)only per month and on this score alone, the present proceeding is liable to be dismissed. The applicants have not adduced any documentary evidence that on the date and time of alleged accident, the deceased lady was fit and healthy. In their pleadings they have not substantiated this alleged fact that the deceased had Master's Degree and was offering private tuition to various students in and around locality from which she was earning Rs. 12,000/- (Rs. Twelve thousand) only per month. Even the income of the husband of the deceased has not been proved.

5. It is submitted that the deceased lady was a housewife and had no monthly income as alleged. The assessment of compensation as suggested by the applicants is not at all applicable in this proceeding. The claim of future prospect 15% increase in alleged monthly income @ Rs. 12,000/- (Rs. Twelve thousand) only just imagination of the applicants. The annual figure given by the applicants is not correct and hence no multiplier 11 can be adopted in this proceeding. No prior claim has ever been placed before the present petitioner as alleged in the application. The ground put forward by the applicant for not filing the compensation within sixty days is not at all maintainable. It can not be said that due to unexpected death of the deceased, the claimants fall in deeply mental shock which took time to recover in normal position for filing this claim application as in view of admitted position, the applicants were fighting G.R. case no. 416/2013, arising of Kadma P.S. case no. 47/2013 only against the owner of the alleged offending vehicle. Regarding age of the deceased no authentic paper

has been filed nor stated in the pleadings of the application filed by the applicants.

6. The case of the O.P. No.3, who is the New India Assurance Company Limited, in brief, is that the application for compensation U/S. 166 M. V. Act filed by applicant is not maintainable either in points of law or facts and the application filed by applicant is not in proper format as per M.V. Act./M.V. Rule and there is no cause of action against this opposite party. The claim is bad by the principles of estoppels, waiver, and acquiescence and the claim is barred by limitation. All the statements / allegation appearing in Petition are denied, save and except which have been specifically admitted and the applicants may please be directed to file an affidavit that for same cause of action they have not filed any other claim case before any other tribunal. In this case the answering Opposite party The New India Assurance Company has made party on 12.08.2025 after lapse of more than 5 years hence this answering Opposite party no way liable for any interest on the part of latches of applicant. The statement appearing in para 1 to 5 of the claim petition with regard to name, full address, age, occupation, monthly income, name address of the employer of the deceased are not known to this answering opposite party the applicants may be directed to file proper Age proof Certificate, Monthly Income Certificate, Occupation Certificate and other educational certificate to prove their contention before hon'ble court. The statement appearing in para 6 and 7 of the claim application with regard to Place, date and time of accident, nature of injury is not known to this answering opposite party. The applicant

may be put to strict proof by adducing documentary evidence such as Certified Copy of F.I.R., Charge Sheet, Police Investigation Report, injury report, P.M. Report to prove the same in court. The statement appearing in para 8 and 9 a,b, c of the claim application, it is stated and submitted that with regard to Registration Number, name and address of the owner and name and address of the insurer of the so called offending Vehicle BR16L9155 (Motor Cycle) Johan Singh, and it is stated and submitted that the aforesaid vehicle was duly insured with this answering Opposite Party Vide Policy No. 54020531120200003571 valid from 27.07.2012 (12.00.01AM) to 26.07.2013 (11.59.59PM) with certain terms and condition attached with Original Policy and the original policy is in possession of owner of the vehicle Johan Singh. The applicant did mentioned the D/L. Number of the charge sheet driver Dinesh Kumar Singh and the D/L of Charge Sheeted driver is matter of verification. The Opposite party No.1 owner Johan Singh of the vehicle may please be directed to file the Original Policy, along with terms and condition of the policy and D/L of the Charge Sheeted driver Dinesh Kumar Singh as required under Section 134 (C) of M V. Act 1988. In absence of any valid Driving License the answering Opposite party is no way liable for any compensation to the applicants. It is further stated and submitted that at the time of accident the deceased Vidya Devi was walking on the middle of the road in utter violation of traffic rule, hence her sole negligence this accident has been occurred. It is also denied that the accident has been occurred due to negligent driving by Dinesh Kumar Singh, Driver of the Vehicle No. BR-16L-9155. In case the documents stated in para 10 of this show cause are not produced in the court it will be presumed that the vehicle was being plied in violation of the terms and conditions of the policy as per section 149 (2) of M.V. Act, and this answering opposite party shall not be liable to pay any compensation to the applicants. The statement appearing in para 11 Quantum of Compensation Rs. 15,04,000/- with any interest which is highly exaggerated, inflated, fanciful and against the provision of law hence it is deny. For proper assessment of Compensation the applicant is directed to file authentic proper age proof certificate, and Income Proof Certificate of deceased Vidya Devi. Thee statement appearing para 12 of the claim application regarding Grounds on which compensation claimed, It is stated and submitted that the applicant neither file any documentary evidence or oral evidence that Vidya Devi was a tutor. The statement appearing in para 13 of the claim application as per own admission of the applicant he has not lodged any demand before this answering Opposite party regarding compensation prior to filing of the present case hence the claim of applicants may kindly be dismissed. In this case the applicant not filed any Legal heir certificate to show that the applicants are only legal heirs of the deceased which is necessary as per Bihar/Jharkhand Motor Vehicles Rule. It is incumbent upon the owner/insurer to prove that the vehicles was being plied at the time of accident in accordance with the terms and condition of the policy and the liability of this answering opposite party only arises when it is established by the owner of the vehicle that the vehicles was being plied in accordance with the terms and conditions of the policy issued to him and the policy was effective on the date of accident. Neither the owner of the vehicles nor the applicant of this case ever informed this answering Opposite Party about the alleged accident and hence the answering Opposite Party is not liable to pay the compensation to the applicant and this answering Opposite Party reserves the right to amend or alter this show cause or file additional / supplementary Show Cause at any stage during the proceeding of this case if necessary and this answering Opposite Party also reserves the right to take up all possible defenses available to the insured as provided U/S 170 of M.V. Act. Hence, the petition filed by the applicants devoid of any merit and liable to be dismissed.

I S S U E S

7. Based upon the pleadings of the parties and upon consideration of the documents filed on their behalf the following issues have been framed:-

I. Whether the Case is maintainable in the present form?

II. Whether the deceased Vidya Devi, aged about 48 years on dated 05.02.2013 at near Professional Flat in Kadma- Sonari Link Road meet with an accident by the Motorcycle bearing registration no. BR16L-9155 due to rash and negligent driving by the driver of the aforesaid vehicle which dash the deceased Vidya Devi?

III. Whether the deceased was earning about Rs. 12,000/- per month on the date of accident?

IV. Whether the Applicants are entitled to compensation as prayed for if so, what would be the quantum of compensation?

V. Whether the applicants are entitled for any other relief or reliefs?

8. Additional issues framed in the case vide order dated

20.2.2025 which the tribunal finds that it is essential to be determined that is as follows:-

i) Whether the Vehicle motorcycle bearing registration on BR 16L-9155 was validity insured on the date of accident dated 05.02.2013 with the O.P. No. 3 the New India Assurance Co. Ltd. Bearing Policy No. 54020531120200003571 valid from 27.07.2012 to 06.07.2013?

ii) Whether the owner/driver of the vehicle bearing registration No. BR 16L-9155 had committed breach of any of the terms and condition of the Insurance Policy?

F I N D I N G S

9. In this case the court finds that the applicant had got examined Harbans Kumar (AW1), who is applicant no.1, and also got adduced certain documentary evidence which are as follows:-

Ext. No.	Description of the Exhibits	Proved/ Attested by
Ext.A-1/AW1	C.C. of FIR	PW1
Ext.A-2/AW1	C.C. of charge sheet	PW1
Ext.A-3/AW1	C.C. of P.M. Report	PW1
Ext.A-4/AW1	C.C. of MVI Report	PW1
Ext.A-5/AW1	Original death certificate of deceased Vidya Devi	PW1
Ext.A-6/AW1	Original Aadhar Card of deceased bearing No. 596753803383	PW1
Ext.A-7/AW1	Original educational certificate	PW1
Ext.A-8/AW2	Passbook of deceased Vidya Devi	PW2
Ext.A-9/AW2	Identity Certificate for families if service Pensioners	PW2

10. The relevant facts that is important to state before entering into the discussions on the issues framed in this case that applicant/claimant

No.1 is the husband of the deceased and the applicant No.2 and 3 are sons and daughter respectively. The deceased died at the age of 48 years as mentioned in the claim petition and she was earning Rs. 12,000/- per month, died due to road accident on the event of vital injury. The accident caused by the vehicle No. BR 16L-9155, leading to registration of Kadma P.S. Case No. 47/2013 dated 05.02.2013 u/s 279/304A of IPC, corresponding to G.R. Case No. 416/2013. The driver of the vehicle O.P. No.2 and the owner O.P. No.1, though the fact has been mentioned that the vehicle in question has not been insured on the date of incident. On the event of appearance of O.P. No.1, who has stated that his vehicle at the time of accident was insured with the New India Assurance Company Limited, copy of the insurance policy which is also brought on the record by the owner of the vehicle bearing Policy No. 54020531120200003571 valid from 27.07.2012 to 06.07.2013, which is in the name of Johan Singh. The incident has occurred on dated 05.02.2013, as per which the vehicle in question that caused accident was validly insured with the O.P. No.3, which is also admitted in his show-cause, however has submitted that the original policy is in possession of the owner of the vehicle Johan Singh , against whom the driving licence and driver of the vehicle Dinesh Kumar Singh is the subject matter of verification. There was direction for submitting the copy of driving licnece of O.P. No.2, which has not filed any driving licence.

11. During the course of argument learned counsel for the appellant has submitted that at the time of accident, the deceased was earning Rs.12,000/- per month out of the work. She was a tuitor and by

giving tuition to the students, she was earning Rs. 12,000/- per months, which is been contradicted by the learned counsel appearing for the O.P. No.3 that no relevant document has been filed regarding the income of the deceased and also the age of the deceased, which has been inconstantly been shown of different age on the various documents that will looked into by the court during appreciation of the materials and evidence available on the record and adduced by the applicant and O.P. of this case.

Discussion, decision and reason for determination on the Issues:-

12. **The Issue no. I, II, VI & VII :-** These issues are taken up at first for discussion, in which the court has to consider whether the case is maintainable in its present form and Whether the deceased Vidya Devi, aged about 48 years on dated 05.02.2013 at near Professional Flat in Kadma-Sonari Link Road meet with an accident by the Motorcycle bearing registration no. BR16L-9155 due to rash and negligent driving by the driver of the aforesaid vehicle which dash the deceased Vidya Devi ?

13. Along with that incidentally the another issues that is additionally required to to be added that that has also to be determined by the tribunal in consequence of the addition of the new fact in the case , that came later on that the vehicle involved in the accident, is been insured with the OP No. 3 and the insurance company is made party to the case and the matter raised in the argument of both the parties in which the main point for the adjudication is that whether the Vehicle motorcycle bearing registration on BR 16L-9155 was validity insured on the date of accident dated 05.02.2013 with the O.P. No. 3 the New India Assurance Co. Ltd. Bearing Policy No.

54020531120200003571 valid from 27.07.2012 to 06.07.2013 and whether the owner/driver of the vehicle bearing registration No. BR 16L-9155 had committed breach of any of the terms and condition of the Insurance Policy ?

14. Now, coming to the evidence as adduced by both the parties and the documents. The applicant witness No.1 Harbans Kumar, the applicant witness No.2 Nishant Kumar and applicant witness No.3 Narmata Kumari and the documentary evidences, which are C.C. of FIR (Ext.A-1/AW1), C.C. of charge sheet (Ext.A-2/AW1), C.C. of P.M. Report (Ext.A-3/AW1), C.C. of MVI Report (Ext.A-4/AW1), Original death certificate of deceased Vidya Devi (Ext.A-5/AW1), Original Aadhar Card of deceased bearing No.596753803383 (Ext.A-6/AW1), Original educational certificate (Ext.A-7/AW1), Passbook of deceased Vidya Devi (Ext.A-8/AW2), Identity Certificate for families if service Pensioners (Ext.A-9/AW2).

15. On behalf of the Opposite Parties no evidence either oral or documentary has been adduced in this case.

16. The document available on the record, which the tribunal finds that it is essential for taking into consideration, in which the copy of insurance policy as the same is not in dispute and admitted by the O.P. No.3.

17. Harbans Kumar (AW1), who is the husband of the deceased, has deposed that he and his daughter and son as applicants against the opp. Parties for compensation with respect to death of her wife occurred due to

rash and negligent driving of the opp. party no. 2, who was the driver of the offending vehicle bearing Registration No.: BR16L 9155. As per my fardbayan before T.M.H. Police camp is that on 05.02.13 at around 6.25 p.m. when her wife was walking with her friend and reached near Professional flat in Kadma-Sonari link road a motorcycle vide registration no.: BR16L9155 rashly and negligently driven by its driver dashed her wife Vidya Devi, she sustained injury, fell down in the ground and got unconscious. The local people took her to T.M.H. hospital and during treatment she had been declared dead. He received the information about the occurrence from his neighbor. Regarding the said accident police case has been registered at Kadma Police station, Jamshedpur, vide Kadma P.S. Case no.: 47/2013 dated 05.02.2013, corresponding to G.R. Case No.: 416/2013 U/S 279/304A ofLPC against the driver of the offending vehicle and after investigation the police has submitted charge-sheet.

18. The applicant has filed Certified copies of the F.I.R (EXT. 1/AW1) and Charge sheet of aforesaid Kadma P.S. Case no.: 47/2013 dated 05.02.2013 (EXT. 2/AW2). The witness has filed the death Certificate of deceased (Ext. 5/AW1), as per the evidence as discussed above it is apparent that the offending motorcycle vide registration no.: BR1619155 belongs to the opp. Party no.: 2 and the time of alleged occurrence it was driven by opp. party no: 1. further has stated that deceased is M.A. in Psychology and by profession she was a tuition teacher and she was earning more or less R.12,000/- per month and the time of her death she was aged about 48 years. |

19. During the course of examination he has got proved the certified copy of FIR of Kadma P.S. Case No. 47/2013 dated 05.02.2013 (Ext.1/AW1), the certified copy of Charge Sheet No. 131/2013 dated 07.06.2013 that has been submitted u/s 279/304A of IPC against Dinesh Kumar Singh, driver of the offending vehicle, O.P. No.2. The certified copy of FIR pertaining to Kadma P.S. Case No. 47/2013 dated 05.02.2013 registered u/s 279/304A of IPC, alleging therein that the accident has occurred due to rash and negligent driving of the driver of motorcycle No. BR16L-9155. The case has been registered on the basis of fardbeyan of Harbans Kumar, applicant witness No.1, stating therein that on dated 05.02.2013 his fardbeyan has been recorded at TMH at 9.30 hours by ASI D.K. Singh of Kadma P.S. The applicant was posted at Tata Growth Shop, Gamharia as Senior Manager, Security on dated 05.02.2013 at 16 hours. The motorcycle driver of BR 16 L-9155 Yamaha came driving the motorcycle rashly and negligently and dashed the wife of the informant Vidya Devi at Sonari, Link Road, Professional Flat, the age of the deceased shown in the fardbeyan is 53 years. In the accident she got injured and got unconscious. With the help of local people and Nirmal Kaur she was admitted to TMH. During treatment she died. The certified copy of postmortem report of Vidya Devi is also brought on the record by the witness (Ext.3/AW1). As per the same the age of Vidya Devi is mentioned as 52 years and postmortem report suggests following anti-mortem injuries over the body of the deceased, which are (A) Graze Abrasions (1) 12 cm x 5 cm over back of left shoulder , (2) 19 cm x 7 cm over left arm outer front,

(3) 7 cm x 4 cm cum inner aspect of left elbow, (4) 11 cm x 6 cm over left out forearm, (5) 7 cm x 4.5 cm over left elbow, (6) 12 cm x 6 cm over right hand. (B) Abrasion- (1) 5 cm x 1 cm over nose, (2) 5 cm x 3 cm over right forehead, (3) 1 cm x 6 cm over left forehead, (4) 2 cm x 1 cm over left knee. © Lacerated wound 14 cm x 2.5 cm x bone looking over right from to parietal scalp. On dissection- Right parietal scalp contused 8 cm x 6 cm, frontal scalp contused 3 cm x 3 cm and 2 cm x 2 cm, whole brain contused more on interior surface. Opinion- Cause of death Hemorrhage and shock. The postmortem conducted on dated 07.02.2013 shows that she died because of injury sustained which is corroborated by the oral evidence and Ext.1 and Ext.2.The certified copy of MVI Report showing date of incident as 05.02.2013 of vehicle No. BR16L9155. The police bearing No. 54020531120200003571 valid from 27.07.2012 to 26.07.2013 (Ext.4/AW1). The death certificate of Vidya Devi (Ext.5/AW1) corroborates that death of Vidya Devi on dated 05.02.2013. The original Aadhar Card of Vidya Devi (Ext.6/AW1) contained in the Aadhar Card No. 596753803383, the date of birth is shown as 1965. The original education certificate of Vidya Devi (Ext.7/AW1). It is important to state that the certificate of Vidya Devi, the examination of the year May, 1973, in which figure 3 appears to be overwriting and it also does not contain the date of issuance of the certificate, it is in torn state and not completely readable and difficulty to ascertain the year of passing of examination , in which deceased Vidya Devi appeared, which cannot be ascertained the educational qualification and year as claimed to be passed in support of its contention.

Besides that the court finds that in his cross-examination by the owner of the vehicle O.P. No.1 has stated that he has no document regarding income of Rs. 12,000/- of her wife. Neither, he has got any document regarding educational qualification of her wife that she is M.A. in Psychology. With respect to the date of year mentioned in Aadhar Card which is 1965 and B.A. examination Certificate 1973 has been admitted. The court finds that the year of birth mentioned in the Aadhar Card and year of passing of examination of B.A. is of 1973. There is marginal difference of age, as per which the age of the deceased at the time of the examination is only of 8 years, which appears to be practically not convincing that the deceased has completed his B.A. examination at the age of 8 years, hence both the documents for ascertaining the age that is Aadhar Card (Ext.6) and Educational Qualification (Ext.7) are not the reliable piece of the document for ascertaining the accurate age of the deceased at the time of incident. Futher, in his cross-examination, by O.P. No.3 that he has got information about the incident from Nirmala Kour with whom her wife was walking and on information he reached to TMH and found her wife dead.

20. Nishant Kumar (AW2) in his evidence has corroborated about the death of her mother occurred on 05.02.2013 due to rash and negligent driving of the opp. party No. 2, who was the driver of the offending vehicle bearing Registration No. BR16L 9155. The aforesaid offending motorcycle vide registration no.: BR1619155 belongs to the opp. Party no.: 2 and the time of alleged occurrence it was driven by opp. party no.: 1. about the income of her mother he has stated that her mother has done her M.A.

Psychology and by profession she was a tuition teacher and she was earning more or less R.12,000/- per month and the time of her death she was aged about 48 years and made a claim of Rs.15,04,000/- (Rs. Fifteen lakhs four thousand only) and filed the Pass Book of her mother's Bank Account and he has also filed Identity Certificate for the Families of Service Pensioners of his father, Harbans. In his cross-examination, he has stated that he has got no document regarding of her mother, nor there is any entry of Rs. 12,000/- in the account of her mother (Ext.8). However, he has stated that the entire money in the account of her mother is credited out of tuition fee. The witness has also stated that he has got no certificate about M.A. of her mother in Psychology, nor any document regarding income and has filed only pass book. Besides that the document, the witness has got proved identity certificate for families of services pensioners of Harbans (Ext.9). In support of its contention regarding the age of Vidya Devi deceased mentioned is 30 years. Certificate issued on dated 30.01.1990 and remaining dependent son and daughter namely Nishant Kumar and Narmata Kumari. On calculation the age of the deceased at the time of the incident near about 53 years.

21. Narmata Kumari (AW3), has reiterated the same as stated by the other witnesses about the reason for the death of her mother that is occurred on 05/02/2013 due to rash and negligent driving of the opp. party no: 2, who was the driver of the offending vehicle bearing Registration No.: BR-16L-9155. And has stated similar to the witness No . 2 that her mother has done her M.A. Psychology and by profession she was a tuition teacher

and she was earning more or less Rs.12,000/- per month and the time of her death she was aged about 48 years. In his cross-examination, he has stated that he has got no document regarding of her mother, nor there is any entry of Rs. 12,000/- in the account of her mother (Ext.8). However, he has stated that the entire money in the account of her mother is credited out of tuition fee. The witness has also stated that he has got no certificate about M.A. of her mother in Psychology, nor any document regarding income and has filed only pass book. Besides that the document, the witness has got proved identity certificate for families of services pensioners of Harbans (Ext.9). In support of its contention regarding the age of Vidya Devi deceased mentioned is 30 years. Certificate issued on dated 30.01.1990 and remaining dependent son and daughter namely Nishant Kumar and Narmata Kumari. On calculation the age of the deceased at the time of the incident near about 53 years.

22. No evidence has been adduced on behalf of any of the opposite parties. O.P. No.3 the insurance company has appeared during the inquiry of the case, but has not choose to cross-examine the witness, earlier examined in this case, as already been discharged. Their evidence became effective against the O.P. No.3 also. It is also important to state that the owner of the vehicle OP No 1 has appeared in the case and filed show cause in which he is not denied that the vehicle bearing the registration No. is not registered in his name, rather he has himself brought the fact that it was insured with the OP No. 3 at the time of incident . The same is also been accepted by the OP No. 3 in his show cause, since the fact that the OP .No.1 is the owner of

the vehicle and it was insured with the OP No. 3 since admitted not required to prove by formal evidence.

23. Now, the tribunal will determine the age of the deceased in this regard the court finds that there is discrepancy regarding mentioning of the age of the deceased in all the document available on the record as discussed above. In the application the age of the deceased is shown as 48 years, her age in the fardbeyan of the informant is mentioned as 53 years, in the postmortem report (Ext.3) her age is mentioned as 52 years. Thus, the court finds on the basis of the facts mentioned in the fardbeyan and government record that is Identity certificate for families service pensioners (Ext.9/PW2), the deceased died at the age of 53 years. Her death caused due to rash and negligent driving on the part of the driver of the offending vehicle, which is also proved on the basis of evidence as discussed above. At the time of incident the vehicle was validly insured with the O.P. No.3 bearing Policy No. 54020531120200003571 valid from 27.07.2012 to 26.07.2013. It is also not in dispute that the aforesaid vehicle was registered in the name of O.P.1 and O.P. No.2 was the driver of the said vehicle, which is also mentioned in their show-cause. The tribunal finds that even after direction to the O.P. No.1 and 2, who were under liability to prove the facts that the driver of the offending vehicle was holding a valid driving license at the relevant point of time that is on dated 05.02.2013. Thus, the tribunal arrived at the conclusion that the owner of the vehicle has committed breach of the terms and condition of the insurance policy.

24. In the case in hand the in the circumstance when there is breach

of contract in the insurance policy by the owner of the vehicle the tribunal is of the opinion that insurance company has to pay the amount of compensation notwithstanding that the insurer may be entitled to avoid or cancel or may have avoided or cancelled the policy relying upon , settled law and the precedent ,about the principle of Pay and Recovery cannot be denied at this stage, which is essential to order the same for the end of the justice ,when the manner of occurrence that the occurrence has occurred in rash and negligent driving by the driver of the offending vehicle, which was ensured with the O.P. No.3, the settled law regarding the benefit of pay and recovery given to the Insurance Company, though it is not been Incorporated in the recent amendment, the same cannot be denied while granting the award of compensation as the vehicle was found to be validly ensured and default on the part of the owner of the offending vehicle in view of the above facts and circumstances. The present court arrived at the conclusion that the applicant cannot be denied of the award of compensation ,as claimed for by the O.P. NO. 3 as the vehicle in question was insured with him ,however in the present fact and the circumstance of the case for the cause of the justice, the O.P. No 3, who will be entitled for recovery rights with liberty to recover the amount of compensation from O.P. No.1 through due process of law.

25. **Decision on the Issue No. I, II, VI & VII :-** Since the applicants are the legal heirs of the deceased, the application filed is maintainable in its present form u/s 166 of M.V. Act and deceased who is aged about 53 years o the date of incident met with an accident by the

aforesaid vehicle as stated above due to rash and negligent driving of the aforesaid vehicle which was validly insured with the insurance company that is O.P. No.3, who is under liability to indemnify the owner of the vehicle. On contrary to that since there is breach in the terms and condition of the policy. The court finds that the insurance company O.P. No.3 is entitled for recovery of the same from the owner of the vehicle that is O.P. No.1. Accordingly, Issue all the aforesaid issues are decided in favour of the applicant and against the O.P. No.1, and 3 .Since the OP No 2 is the driver of the offending vehicle he is not under liability to indemnify the owner of the vehicle or to pay any compensation to the applicant's .

26. **Issue No. III :-** In this point the main point for the determination is that whether the deceased was earning about Rs. 12,000/- per month on the date of accident ? In this regard, the court finds that there is no cogent piece of evidence adduced by the applicant regarding the accurate income of Rs. 12,000/- per month on the date of incident of the deceased. She was a tutor and there is no such evidence has ben brought on the record that she was teaching the student taking tuition. The court finds that the claim of the applicant that the deceased was earning Rs 12,000/- per month on the date of accident out of the tuition work does not inspire confidence . Therefore, the tribunal is of the opinion that it would be proper to determine the income of the deceased under the policy of minimum wages Act. In the fact of the case the deceased is the wife of the applicant No.1 and no nature of the work is been proved except the oral evidence and statement in the application, in which it has been stated that the deceased

was earning by tuition teaching students, however the accurate income is not proved and finding that the case is of the year 2013, the minimum wages prescribed at the relevant point of time tentatively, the prescribed minimum for semi skilled worker in the state of Jharkhand prevalent in the year 2013 with effect from October 1, 2013 to March 31, 2014, which is suitable for wages as per nature of the work which is stated by the witness highest paid scale at the time of the incident is Rs. 174.17 per day for Semi Skilled category, which the tribunal finds that would be sufficient to meet in the interest of justice for calculating the notional income of the deceased that is ₹ 174/- x 30 = ₹ 5, 220/- per month, which is applicable at the time of accident. The annual income is determined as ₹ 5,220/- x 12 = ₹ 62,640/-. Accordingly, the issue No. III is decided with respect to the income of the deceased as mentioned above.

27. **Issue No. IV :-** In this regard the main point to be determined is that whether the applicants are entitled to compensation as prayed for it so, what would be the quantum of compensation ? In the light of the findings of the issue No. I, II, III, VI & VII ,that the application for compensation is maintainable., here it is also important to state that though the accident is of the year 2013 as per the application the date of incident is 05.02.2013, the delay has been explained in the application of the compensation. Due to the unexpected death of the deceased the claimants fall in deeply mental shock which took time to recover in normal position for filing claim application as mentioned in the application. The application has been filed on dated 22. 02.2020 admitted on 04.09.2021 beside that the

age of the deceased that is assessed in the light of the material available on the case record that is the deceased was at the age of 53 years and the above calculated annual income is taken to be the notional income of the deceased for calculating the loss of dependency following the decision of Hon’ble Supreme Court in Kirti V Oriental Insurance Company Limited (2021) 2 SCC 166 and thus being so, the multiplier of 11 % would apply as per the principles laid down in the Judgment of the Hon’ble Apex Court Sarla Verma and ors versus Transport Corporation Delhi and Anr reported in AIR 2009 SC 1304. Considering the notation income of the deceased for calculating the loss of dependency following the decision of Hon’ble Supreme Court in Kirti V Oriental Insurance Company Limited (2021) 2 SCC 166 ,Since the deceased was married, died leaving behind his family in that there is three members the deduction to the tune of 1/3 would apply. As regarding future prospect, since the deceased was 53 years old, self employed 10% future prospect interest shall be applied. In the result, the Issue No. IV is decided in affirmative and in favour of the claimant as per which as per the aforesaid findings and the reason, in view of the above discussions the amount of compensation admissible in favour of the applicants would look like the following, explained in the following tabular format:-

a	Annual Income ₹ 5,220/- x 12	₹ 62,640/-
b	Future Prospect not applicable	10 %
c	(a) + (b)	Rs.68,904/-
d.	After deduction of 1/3 amount towards personal expenditure	Rs. 45,936/-

	Rs 68,904/- – Rs. 22,968/-	
e.	Multiplier	11
f.	Loss of Future Income (Rs. 45,936/-x 11)	Rs. 5,05,296/-
g.	Funeral Expenses	Rs. 15,000/-
h.	Loss of Estate	Rs. 15,000/-
i.	Loss of consortium	Rs. 40,000/-
	Total	Rs. 5,75,296/-

28. **Issue No. V :-** Whether the applicants are entitled to get any other relief ? In the light of the foregoing discussions and findings the court finds that in the facts and circumstances of this case that the application for compensation has been filed with causing delay of almost seven years, the tribunal is of the opinion that the dependents are not the dependents of the applicant, rather the legal heirs being husband and children, applicant No. 1 is a retired from service, applicant No.2 is the son aged about 39 years and daughter 32 years at the time of filing of the application, they are being the legal heirs entitled for the compensation out of the loss of the estate of the deceased and not as dependent. At the same time considering that there is considerable long delay in filing of the application for the compensation and causing undue delay in the prosecution of the case ,the applicants are not entitled for interest on the future prospect and any interest from the date of the accident that is 05.02.2013 to the filing of the application that is 22.2.2020, nor during the pendency of the case. Accordingly, Issue No. V is decided in negative and against the applicants.

29. Considering the objective of the Act which is a beneficial legislation, the award of compensation cannot be denied to the benefit of the

claimant, who are the dependents of the deceased, if so it will frustrate the entire objectives of the legislation. Therefore, the court also finds that the amount at first is liable to be paid at the hand of Insurance company, who later on have the recovery rights from the owner of the vehicle, who had breached the condition of the Insurance Company. Henceforth, it is hereby

ORDERED

30. That the application of the Applicants is allowed, on contest against the O.P. No. 1, 2 and 3. An Award of Rs. 5,75,296/- (Rupees five lakhs seventy five thousand two hundred ninety six only) is passed in favour of the claimants/applicants.

31. By this order the O.P. No.3 the New India Assurance Company Limited is ordered to pay compensation amount of Rs. 5,75,296/- (Rupees five lakhs seventy five thousand two hundred ninety six only) to the applicants with liberty to recover the same from the O.P.No.1, owner of the motorcycle having registration no. BR16L-9155, by drawing account payee cheque of 50% of the compensation amount out of the awarded amount in favour of applicant no.1 Harbans Kumar, husband of the deceaed and 25 % in favour of the applicant No.2 Nishant Kumar, son of the deceased and 25% in favour of the applicant No.3 Ms Namrata Kumari, daughter of the deceased.

32. The O.P. No.3 the New India Assurance Company Limited is directed to deposit the amount of award of Rs. 5,75,296/- (Rupees five lakhs seventy five thousand two hundred ninety six only) , within 30 days from this order by RTGS or NEFT in the bank account of P.O.M.A.C.T. vide account details as below:-

Sl. No.	Account No.	Name of Account holder	IFSC Code	Branch	Branch Code
01	40460697564	MOTOR VEHICLE ACCIDENT CLAIM TRIBUNAL	SBIN0000096	SBI Main Branch, Bistupur	00096

The amount deposited ,to be intimated to the tribunal, for ensuring the disbursing/payment of the same in favour of the applicants.

In default of the payment of the compensation amount, the claimants are at liberty to get the awarded compensation amount to be realized through due process of the law.

Let a copy of award be supplied to both parties at once.

O/c is directed to deposit the case record to District Record Room after completion of all due formalities.

Manju Kumari
District Judge-V-cum-M.V.A.C.T.
East Singhbhum, Jamshedpur
Officer ID No. JH 0583
Dated: 20.02.2026

(The Judgment is pronounced, delivered and signed by me in the open court, given under the seal of the court).

Manju Kumari
District Judge-V-cum-M.V.A.C.T.
East Singhbhum, Jamshedpur
Officer ID No. JH0583
Dated: 20.02.2026