District- Godda

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

Present:- Richa Srivastava
Distt. Judge-III-cum-P.O. M.A.C.C.
Godda

Dated, Godda, the 24th April, 2026

Motor Accident Claim Case No. 101/2023

1. Sumi Marandi W/o Sonalal Hembram, aged about 49 years (wife of deceased)

R/o Vill. Jaynagra, P.S. Palojori, Dist. Deoghar

2. Pamila Hembram D/o Sonalal Hembram, W/o Anand Marandi, aged about 31 years (daughter of deceased)

R/o Vill. Khatangi, P.S. Jama, Dist. Dumka

3. Sarita Hembram D/o Sonalal Hembram, W/o Dineshwar Hansda, aged about 29 years (daughter of deceased)

R/o Vill. Moranga, P.S. Palojori, Dist. Deoghar

Local Address

C/o Biti Murmu W/o Late Sunil Kumar Tudu

Village Kalbadda, P.S. Meharma, Dist. Godda

...................**Claimant/Plaintiff**.

- V E R S U S -

1. Shahbaj Ali S/o Rahim Ansari
   Owner of Apache RTR Motorcycle No. JH15Z/7271
   Engine No. AEBHL2421004
   Chassis No. MD634AE8XL2H21758
   Village Sagrajor, P.S. Palojori, Dist. Deoghar.
2. Reliance General Insurance company ltd.
   Plot No. 1954, 1st Floor, Urmila Enclave, Saraidhela, Main Road,
   Dhanbad, Jharkhand-828127.

......................O.Ps

Counsel for the Claimants **:-** Sri Om Prakash Kapri, Adv.
Counsel for O.P. No.1 **:-** Ex-Parte
Counsel for O.P. No. 2 **:-** Sri Ravi Ranjan Chaturvedi, Adv.

AWARD

The claimants have filed the instant case u/s 166 of the M.V. Act for lump-sum compensation amount to the tune Rs. 10,38,000/-(Rs. Ten lac thirty eight thousand only) along with interest in respect of death of Sonalal Hembram (hereinafter referred to as the deceased) in vehicular accident involving Apache RTR Motorcycle bearing registration no. JH15Z/7271 attached by O.P. No. 1 and insured with O.P. No. 2 Reliance General Insurance Company Ltd. Vide insurance policy no. 990292123750034552 valid from 16.03.2021 to midnight 15.03.2022.

2. The claimants 1, 2 & 3 are wife and daughters of the deceased.

3. On 14.02.2022 the deceased Sonalal Hembram was going to take Rasan from Nawadih Faram by his bicycle. When he reached near nawadih faram at about 4.30 pm, a motorcycle no. JH15Z/7271, which was being driven rashly and negligently by it's driver, came and dashed him. As a result he sustained serious injuries. He was taken to palojori hospital but doctor declared him dead and thus the case.

4. It has been put forward that the deceased was a labour and he was earning every month Rs. 10,000/-. The accident took place within the jurisdiction of Palojori P.S. in Deoghar District and after making Prima facie inquiry instituted a case vide Palojori P.S. Case no. 3/2022 U/Ss 279 & 304 (A) of I.P.C. against the driver namely Niyamat Ansari of Apache RTR Motorcycle bearing registration no. JH15Z/7271 and after investigation I.O. submitted charge sheet against the driver namely Niyamat Ansari of Apache RTR Motorcycle bearing registration no. JH15Z/7271 U/Ss 279 & 304 (A) of I.P.C. having charge sheet no. 12/2022, dt. 31.03.2022. The owner of motorcycle is liable for the act of driver and the Insurance Company on the basis of contract contained in Insurance policy to indemnify the liability of the owner being Insurance company, i.e. O.P. no. 2 Reliance General Insurance Company Ltd., is liable to pay compensation to the claimants against the death of the deceased Sonalal Hembram. The claim case valued at Rs. 10,38,000/- for the purpose of court fee to be filed as per law.

5. The owner and insurer have been arrayed as opposite parties no. 1 & 2 respectively. In pursuance to the issuance of notice to O.P. No. 1 & 2, O.P. no.1 did not appear and proceeding proceeded as Ex-parte vide order dt. 16.05.2025 and O.P. no. 2 appeared and filed W/s on 06.08.2025.

6. **<u>Written Statement on behalf of O.P. No. 2</u>**

On behalf of the O.P. no. 2 Ld. lawyer in para-1 submitted that the this case is not maintainable as before the territorial jurisdiction of this Hon'ble Tribunal. The claimant has brought this case for grant of compensation to this Hon'ble Tribunal on the sole ground of fake-false basis that they are temporarily reside at Godda district. Your honour will be find from perusal of the documents filed by claimant and the claim petition, that the claimants have only in view to file the case put temporary residence at Godda but, in residential proof appended to the claim petition bears the address of Deoghar District. The alleged accident happened at Palajori of Deoghar district and claimant is also resident of Deoghar District, the opp. party, owner/driver/insurer are also belonging to Deoghar, and Dhanbad therefore, the case for claim should be brought as before MACT-Deoghar or Dhanbad, but it has been filed at, Godda jurisdiction merely giving false address of Godda, therefore this case is not maintainable at the jurisdiction of Godda, as per mandatory provisions of law enumerated in Section 166 (2).

Like thus - “Every application under Sub Section (1) shall be made at the option of the claimant, either to the claim Tribunal having jurisdiction over the area in which the accident occurred, or to the claim Tribunal within the local limits of whose jurisdiction the claimant resides or carries on business or within the local limits of whose jurisdiction the dependent resides and shall be in such form and certain such particulars as may be prescribed."

Under Section 165 of the MV Act, it is for the State Government to constitute one or more Motor Accident Claim Tribunal for such area as may be specified in notification for the purpose of adjudication upon claims for compensation in respect of accident involving death of or bodily injury to persons arising out of use of Motor Vehicles. Every application for compensation to be made u/s 166 (1) (2) to the claim Tribunal having jurisdiction over the area in which the accident occurs or in which area claimant or opp. party resides.

From adjudication of the claim petition, it is crystal clear that this Hon'ble Tribunal has got no jurisdiction to trial the case of vague/false address of the claimants. Section 166 (2) clearly provides for the claim Tribunal limits of whose jurisdiction claimant resides or carries on business. Therefore, the claim case filed at Godda, has no justification and as such the **case is highly suffers for error of territorial jurisdiction and as such, the claim case is not maintainable in the eye of law.**

It is stated in para 5 that this respondent deny all the allegations made in the petition, except those, which are specifically admitted hereunder and the claimant is not entitled to any compensation as claimed.

Further, the petitioner is put to strict documentary & evidentiary proof of all the allegations in the petition. It is stated in para 6 that this respondent is at present unable to admit whether the interest of owner of the alleged Motorcycle No-JH-152-7271 was insured with this opponent at material time of accident unless further better particulars regarding the insurance are disclosed by the owner of the vehicle at provided u/s 169 (2) of MV Act. Failing which, it shall be presumed that this opponent is not the insurer in this instant case and the name of this respondent should be expunged from the case with compensatory cost.

STATUTORY DEFENCES

It is stated in para 7 that the person driving the vehicle had **"no license in force"** as on the date of accident to drive the vehicle and as such the OP-Insurance Company is not liable to pay any compensation due to the breach of the conditions of the policy and the law on the subject. The liability, if any, lies on the owner alone as held by the Hon'ble Supreme Court in case as reported in **2010 A.C.C. 518 New India Assurance Co. Ltd. Vs. Kusum AND 2013 T.A.C. 29 United India Insurance Co. Vs. Sujata Arora.** It is stated in para 8 that the driver of the Motorcycle had no valid and affective driving license at the time of the alleged accident and the respondent owner knowing the same willfully handed over the said vehicle to the driver. It is stated in para 9 that the driver of Motorcycle alleged was plying on public road without valid D/L and the insurance alone does not create any liability in the insurance company unless the vehicle in question, even if insured, is used in accordance with the terms and conditions of the policy and also that there is no breach of the terms thereof. In case of any breach of the terms, the insurance company cannot be made liable. It is stated in para 10 that the petitioner is put to strict proof that the registered owner used the alleged Vehicle without any breach of Policy conditions and traffic rules as per MV Act, Central Rules and Bihar M.V. Rules and their subsequent amendments. The petitioner is put to strict proof that there was no violation of any section of the aforesaid statutes. It is stated in para 11 that after the confirmation of Insurance policy u/s 64-VB of Insurance Act, this respondent seeks protection under section **147** and **149** of M.V. Act. It is stated in para 12 that this respondent humbly submit that as per section **134 (C)** of M.V Act 1988, it is mandatory duty of the insured respondent to furnish the particulars of policy, date time and place of accident, particulars of injured/dead and the name of the driver and particulars of the driving license but the insured respondent herein has not complied witho statutory demand. Hence this respondent is not liable to pay any compensation and the case is liable to be dismissed against this respondent for non-compliance of statutory demand. The liability, if any, is of the owner. It is stated in para 13 that this respondent further submits that as per Sec. 158 (6) of MV Act 1988, it is a mandatory duty of the concerned Police to forward all the relevant documents to the concerned insurer within 30 days from the date of the information but the concerned police failed to forward the documents and not complied with the statutory demand. It is stated in para 14 that the petitioners claim interest which is highly excessive and the same is contrary to Sec. 3 of Interest Act, 1978 and the Judgment of the Hon'ble Apex Court reported in 2001(1) AJR 253(SC). The Petitioners are not entitled to claim any interest on non-pecuniary damages as per the judgment reported in 1995 ACJ (1) page 366.) It is stated in para 15 that the amount of compensation claimed by claimant is highly exorbitant and without any basis. Without prejudice to the foregoing submission it is submitted that in case the negligence of the accused driver is proved and the award is passed in favor of the petitioners and against answering respondent then the petitioners will be entitled to get interest as per the provisions of Interest Act, otherwise the claimant is not entitled to any interest. That further it is prayed that this OP shall not be saddled with the interest for any delay on part of the claimants, subsequently the interest be waived off for that period. It is stated in para 16 that Without prejudice to the contentions taken and without admitting any liability it is further submitted that the claimant(s) may be directed to furnish the details of the PAN No., which is mandatory as per the provisions of the IT Act." It is stated in para 17 that this respondent does not admits & denies that the Deceased was aged about 55 years and was working as Labour and was earning Rs. 10,000/- monthly. Hence the petitioner is put to strict proof with documentary evidence regarding petitioner age, income and occupation. It is stated in para 18 that this respondent seeks protection of Sec. 149 and 150 of Motor Vehicle Act. It is stated in para 19 that this respondent does not admit and denies the allegations regarding the manner in which the alleged accident said to have occurred. The allegations that on 14-Feb-2022. The petitioner is put to strict proof of the same with documentary evidence. It is stated in para 20 that this respondent specifically denies that the **injured** received **fatal injuries** as alleged and the petitioner is put to strict proof of the same with documentary evidence. It is stated in para 21 that this respondent specifically denies that the petitioner demanded any amount of compensation and petitioner is put to strict proof of the same with documentary evidence. It is stated in para 22 that the alleged accident is caused due to the own negligence of the deceased **who himself was crossing the so busy road negligently and without observing the traffic at the time of alleged accident** therefore, the accident occurred. There is no tortuous act on the part of the alleged offending Motorcycle, hence this OP is under no liability to pay any compensation to the petitioner. It is stated in para 25 that the amount claimed is highly arbitrary and exorbitant which cannot be awarded.

That this Respondent prays that this Hon'ble court may be pleased to dismiss the above petition as against this respondent with costs as the petition is fit to be dismissed with cost.

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

I S S U E S

(i) Whether the claim petition as framed is maintainable?

(ii) Whether the deceased Sona Lal Hembram died in motor accident dt. 14.02.2022 at about 4.30 P.M. due to rash and negligent driving by the driver of Motorcycle bearing registration no. JH15Z/7271?

(iii) Whether the suit is barred by limitation?

(iv) Whether accident occurred due to contributory negligence of deceased?

(v) Whether the driving licence of driver was valid and effective at the time of accident?

(vi) Whether the deceased Sona Lal Hembram was a Labour and his monthly income was Rs. 10,000/-?

(vii) Whether the Claimants are entitled for compensation, If yes, from whom and what extent of amount?

(viii) Whether the claimants are entitled for any other relief or relieves ?

Issue-recaste

(ix) Whether the suit is barred by Territorial Jurisdiction?

(x) Whether the offending Motorcycle bearing registration no. JH15Z/7271 was duly insured with the Reliance General Insurance company ltd. ?

8. In order to support its claim, claimant has examined altogether two witnesses they are :-

C.W. 1	Sumi Marandi (Claimant No. 1)
C.W. 2	Sikandar Hembram

C.W.1 Sumi Marandi (Claimant No. 1), stated in her affidavit that she is the claimant in this case and is providing her own statement. In para 2 she stated that the deceased, Sonalal Hembram, aged approximately 55 years, was her husband. He used to earn approximately ₹10,000 per month working as a laborer in Dumka-Godda and provided for the family's livelihood. Her two daughters reside with her. In para 3 she stated that the incident occurred on Monday, February 14, 2022, at approximately 4:30 PM. Her husband had gone to Navadih Farm on a bicycle to get rations. In para 4 she stated that near Navadih Farm, the driver of a red-colored Apache motorcycle, bearing registration number JH 15 Z 7271, riding fast and recklessly, struck her husband, resulting in his death. In para 5 she stated that her husband's post-mortem was conducted at Sadar Hospital, Deoghar. In para 6 she stated that the case regarding the accident was registered by her at the police station. In para 7 she stated that she has not received any money/compensation in this case yet. In para 8 she stated that her claim is true and correct.

In cross-examination on behalf of Opposing Party No. 02 (Insurance Company) she stated that she was married at the age of 18. In para 2 she stated that after her marriage, she used to live at her in-laws' house. In para 3 she stated that the accident occurred near Nawadih Farm. In para 4 she stated that the collision took place between a bicycle and a motorcycle. Her husband, Sona Lal Hembram, was on the bicycle; no one else was with him on the bicycle, and he was alone. In para 5 she stated that the incident occurred three and a half years ago, but she cannot specify the exact date. In para 6 she stated that her husband used to work as a laborer in Palojori, Dumka, and Godda. In para 7 she stated that her husband used to return home after working in Godda; he used to find work for 30 days in a month. In para 8 she stated that she does not have any sons, only two daughters. She has married off both daughters, and both are widows. In para 9 she stated that her mother-in-law and father-in-law are no longer alive. In para 10 she stated that she does not know the registration number of the motorcycle. In para 11 she stated that a case has been filed against the person who struck her husband’s bicycle. In para 12 she stated that she cannot say whether the motorcycle driver possessed a license or not. In para 13 she stated that she has not submitted any documents to the court regarding her husband's age or his income. In para 14 she denied the allegation that her husband died at a different location due to some other cause and that she has filed a false case simply to obtain money.

C.W.2 Sikandar Hembram stated in his affidavit that he knows the claimant of this case and is giving his statement on behalf of the claimant. In para 2 he stated that the deceased, Sona Lal Hembram, aged about 55 years, was a resident of his village. He used to earn approximately 10,000 rupees per month through labor work in Dumka-Godda and used to support his family. In para 3 he stated that on February 14, 2022, at approximately 4:30 PM on Monday, the driver of an Apache motorcycle (registration number JH-15Z 7271) was riding fast and recklessly near Nawadih Farm and struck Sona Lal Hembram, which resulted in his death. In para 4 he stated that the claimant's claim is correct.

In cross-examination on behalf of Opposing Party No. 02 (Insurance Company) he stated that Sona Lal Hembram was his paternal uncle

(Kaka). In para 2 he stated that the accident occurred on February 14, 2022.In para 3 he stated that Sona Lal Hembram did not use to give his monthly earnings into his hands. In para 4 he stated that Sona Lal Hembram had told him that he earned ten thousand rupees per month. In para 5 he stated that the collision occurred between a bicycle and a motorcycle; his uncle was on the bicycle. In para 6 he stated that he does not remember the registration number of the motorcycle. In para 7 he stated that he had not seen the motorcycle driver. In para 8 he stated that he cannot say whether the motorcycle driver possessed a license or not. In para 9 he denied the allegation that his uncle died at a different location due to some other cause and that his aunt (Kaki) has filed a false case just to obtain money.

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

Claimant's Ext.-01	Certified Copy of FIR of Palojori P.S. Case no. 3/2022
Claimant's Ext.-02	Certified Copy of chargesheet of Palojori P.S. Case no. 3/2022
Claimant's Mark -X	Xerox copy of Certificate of Registration
Claimant's Mark -X/1	Xerox copy of Insurance Policy
Claimant's Mark -X/2	Xerox copy of Vehicle Particulars
Claimant's Mark -X/3	Xerox copy of Motor Vehicle Inspector
Claimant's Mark -X/4	Xerox copy of Dead Body of Challan
Claimant's Mark -X/5	Xerox copy of Inquest Report
Claimant's Mark -X/6	Xerox copy of Postmortem Report

10. Proceeding against O.P. No.1 proceeded as Ex-parte vide order dt. 16.05.2025 and O.P. no. 2 have neither examined any witness nor relied upon any documentary evidence.

F I N D I N G S

11. Learned counsel on behalf of claimants submitted during argument that the claim of the petitioners is proper and as per law and the occurrence had happened due to the rash and negligent act of driver of motorcycle and at the time of accident, the vehicle was insured, as such 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 claimants as mentioned in claim petition.

12. Learned counsel on behalf of opposite party no.2(Insurance company) submitted during argument that the claim of the claimants is not maintainable in its present form as it hits by territorial jurisdiction and also the owner of the motorcycle was not driving the motorcycle rather it was borrowed by the other person. Also the person was not having driving license at the time of accident which is breach of conditions of insurance policy which makes the insurance company not liable for any claim amount. It is further submitted that no age or income proof has been proved by the claimant. Further the accident occurred due to contributory negligence of the deceased and if any claim amount is due on the O.P. It is the owner who has to indemnify the claim amount. Lastly he prayed to dismiss the claim petition.

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.

Hon'ble Apex Court in its judgment and order dated 09.02.2018 passed in the case of **Arjit Saini and Another Vrs. The Oriental Insurance Company Ltd. And Others, Civil Appeal No. 7300-7309 of 2016,** held as under:

> "….. While considering the claim petition, the Tribunal is required to hold an enquiry and act not as criminal court so as to find whether the claimants have established the occurrence beyond shadow of any reasonable doubt. In the enquiry, if there is prima facie evidence of the occurrence there is no reason to disbelieve such evidence. The statements coupled with the facts of registration of FIR and trial of the accused in a criminal court are sufficient to arrive at a conclusion that the accident has taken place. Likewise, in **Kusum Lata Vrs. Satbir, 2011 (2) RCR A © 379 (SC)** Hon'ble Apex Court has held that in a case relating to motor accident claims, the claimants are not required to rove the case as it is required to be done in a criminal trial. The court must keep this distinction in mind. Strict poof of an accident caused by a particular bus in a particular manner may not be possible to be done by the claimants. The claimants were merely to establish their case on the touchstone of preponderance of probability. The standard of proof beyond reasonable doubt could not have been applied."

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

15. **Issue No. I, III & IX**

So far as Issue **no.-I** the maintainability of this case is concerned, the claimant nos. 1, 2 & 3 are the wife and daughters of deceased and being legal heirs of the deceased they 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**. **III** about suit barred by limitation is concerned in written statement O.P. no. 2 the insurance company raised objection that the suit is barred by limitation in light of section 166 (3) of M.V.Act 1988 as per amendment in the year 2019, which came into force in year 2022 but prior to these amendment there was no period specifically mentioned which keeps bar of six months for filing of the case but it is very apparent that in this case the accident took place on 14.02.2022 and the F.I.R was lodged on the 15.02.2022, in these circumstances we have to see the judgment of the Hon'ble High Court of Judicature at Madras in Malaravan Vs Praveen Travels Private Limited), the Hon'ble high court has been pleased to observe that limitation of section 166(3) MV Act shall not apply if the FIR has been registered by the police within six months of accident.

In ICICI Lombard General Insurance Co. Ltd. Vs. Ayiti Navneetha & Ors. The Hon'ble Apex Court has pleased to stay on six months dead line to file motor accident claim and ordered that MACTS, High Court not to reject petition on the ground of delay.

In these circumstances in any situation the suit is not barred by limitation.

So far as the matter of **Issue no**. **IX** about suit is barred by Territorial Jurisdiction is concerned though the insurance company i.e. O.P. No. 2 raise objection in written statement as well as argument that the suit hit by the territorial jurisdiction as the claimant is a resident of Deoghar and only to file this suit a local address has been given by the claimant and the accident took place in Deoghar and postmortem done at Deoghar as well but on perusal of claimed petition as well as statement of claimant No. 1, it appears that the deceased was also working in Godda as well and law itself provide that the claimant can file the suit any one of the place where the occurrence has happened or the claimant resides or carries on business or within the local limits of jurisdiction whose jurisdiction the dependents resides and in this case the claimants herself given local address for the purpose of local residence as well as mentioned that the deceased was working in Godda as well. **Hence the Issue no. I, III & IX are decided in favour of claimants.**

16. **<u>Issue No. II & IV</u>**

So far as the matter of issue **no. II** about accident due to rash and negligent driving of driver of offending vehicle bearing registration No. JH15Z/7271 is concerned, the claimant No. 1 in her affidavit specifically stated that the accident has occurred on 14.02.2022 due to rash and negligent act of the driver of the motorcycle bearing no. JH15Z/7271 but with the same time it is also important to determine issue **No. IV** which is about the contributory negligence of the deceased who was riding on his bicycle at the time of accident is concern though O.P. no. 2 in its written statement stated that the accident took place due to negligent act of the deceased and for the same reason the liability should be distributed between both the driver and the insurance company should not be the sole person in the picture to indemnify the claim. But on perusal of complete record, it is very much apparent that the case has not been instituted upon the deceased for rash driving. The claimant no.1 in her affidavit specifically stated that the motorcycle has dashed her husband and also O.P. no.2 except in submission in written statement neither proved any document nor examined any witness to establish the plea of O.P. no. 2. It is also apparent that F.I.R. registered against the driver of offending vehicle and chargesheet has also been submitted against the driver of offending vehicle and no where the deceased was found negligent by the police. In these circumstances the fact of contributory negligence not establish by the O.P. no.2. **Hence the Issue no. II & IV are decided in favour of claimants.**

17. **Issue No. V & X**

So far as the **issue No. V** about driving license is about driving license of driver of Apache RTR Motorcycle No. JH15Z/7271 at the time and date of occurrence is concerned the claimants not adduced any documents in this regard though it was the duty of the owner of the motorcycle to appear and submit all these document but the owner not appeared and the proceeding against him proceeded as exparte. In this context the judgment of Hon'ble Apex court in

CIVIL APPEAL No. 9669 of 2024

RAMA BAI ……………Appellant(S)

Versus

M/s AMIT MINERALS

THROUGH INCHARGE OFFICER/

COMPETENT OFFICER & ANRS.

…………RESPONDENT(S)

is required to be mentioned wherein the Hon'ble Apex Court has been pleased to opine that "it is only proper that the insurer be directed to satisfy the award, which however can be recovered by the insurer from the insured owner of the vehicle".

So far as the matter of Issue **no. X** regarding the insurance of the vehicle is concern the claimants have exhibited the Claimant's Mark-X/1, which is Xerox copy of insurance policy which shows that the policy having Policy No-990292123750034552 valid from 16.03.2021 to midnight 15.03.2022, is available on record and the date of occurrence is mention as 14.02.2022 which shows that at the date of occurrence the vehicle was insured with O.P. No. 2. **Hence the Issue no. V & X are decided in favour of claimants.**

18. **<u>Issue No. VI</u>**

So far as Issue **No. VI** about Rs.10,000/- monthly income of deceased being labour is concerned though the claimants in their claim petition as well as in affidavit stated that he was earning Rs.10,000/- monthly but no documentary proof has been adduced by the claimant in this regard but it is also very much apparent that deceased was husband and father of claimant and he was working as labour. So looking into the circumstances it is very much needed to observe that in absence of any documentary proof of income we have to keep an eye on the order issued by the Department of Labour, Employment, Training and Skill Development of Jharkhand Government which is about minimum income of a person skilled or non-skilled labour and in this case as the claimant herself stated that her husband was a labour without any skill, hence he is presumed as a non-skilled labour and his monthly income will also be assessed as per the order of the government as above discussed. Accordingly this point is decided.

19. **<u>Issue no. VII & VIII</u>**

So far as the matter of issue **no. VII & VIII** are concerned these issues are regarding the entitlement of claimants 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) <u>Age of the deceased</u> :- In this regard the plaint mentions it as 55 years and on perusal of the postmortem report (Claimant's Mark-X/6) It is apparent that at the date of accident the deceased was 55 years old. Hence considering the said postmortem report the age of the deceased on the date of occurrence i.e. 14.02.2022 would be 55 years.

(b) <u>Income of the deceased :-</u> Claimants have stated the income of deceased as Rs.10,000/- per month being labour but no documentary proof of income of the deceased has been produced and in absence of any documentary proof, we have to see the order of 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 is mentioned as Rs.9710.97 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.9000/- per month.

(c) <u>Number of dependents :-</u> As far as the number of dependent/legal heirs are concerned, the claimants have claimed themselves to the dependent/legal heir of the deceased being wife and widow daughters of deceased. There are three dependent/legal heir 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 heir 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 55 years of age and his job was not of salaried category. He was self employed. Therefore, 10% 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 1/3 as the claimants are his wife and widow daughters. Hence, this deduction will be 1/3.

(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 11 would be applicable since the deceased was 55 years old at the time of accident.

I find that the deceased was the husband and father of claimants and the claimants are dependent/legal heir of the deceased. 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/-, 44,000/- 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. <u>CALCULATION TABLE</u>

Monthly income of the deceased (in absence of documentary proof)	Rs. 9,000/- per month.
Yearly income of the deceased	Rs. 9000/- x 12=Rs. 108,000/- p.a
Deduction towards personal expenses	1/3 of Rs. 108,000 = Rs. 36,000/-
Income after deducting personal expenses	Rs. 108,000 – Rs. 36,000 = Rs. 72,000/- P.a.
Future prospect (in view of Judgment of Pranay Sethi case)	10% of 72,000= 7,200/-
Total income for the purpose of computation of compensation amount	72,000 + 7,200= 79,200/-
Multiplier i.e. 11	Rs. 79,200/- X 11 = Rs. 871200/-
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. 44,000/-
Grand Total	**Rs. 9,45,200/-**

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

<u>O R D E R</u>

20. It is therefore, ordered that **O.P. No. 2, Reliance General Insurance Company Ltd.** shall satisfy the award by depositing the awarded amount of **Rs. 9,45,200/-(Rs. Nine lacs forty five thousand two hundred 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. 5,45,200/- in the name of claimants no. 1 Sumi Marandi & through cheque of Rs. 2,00,000/- - Rs. 2,00,000/- each in the name of claimant no. 2 & 3 Pamila Hembrom and Sarita Hembram** respectively 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. Further the O.P. 2 will have liberty to recover the same amount from O.P. no. 1 owner of the vehicle.

21. 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)

Sd/-	Sd/-
(Richa Srivastava)	(Richa Srivastava)
District Judge-III	District Judge-III
-cum-	-cum-
P.O.-M.A.C.C.	P.O.-M.A.C.C.
Godda	Godda
dt. 24.04.2026	dt. 24.04.2026