

IN THE HIGH COURT OF JHARKHAND AT RANCHI

Miscellaneous Appeal No. 98 of 2026

Legal Incharge, T.P. Hub, Magma HDI General Insurance Co. Ltd., Unit No. 508, 5th Floor, Patna One Mall, Dakbungalow Chawraha, P.O., P.S. & District Patna (Bihar), Pin No. 800001, Through Sangitesh Shivam its Legal Manager, having its Office at Unit No. 508, 5TH Floor, Patna One Mall, Frazer Road, Dakbungalow Crossing, P.S. Kotwali, P.O. & District-Patna Appellant

Versus

1. Sukul Lohra, Son of Late Jataru Lohra, Resident of Village Bhansnanda, P.S. Bero, P.O. Hariharpur Jamtoli, District-Ranchi.
2. Ranjit Kumar Tiwari, son of Gunjar Tiwari, 709, Near Ram Janki Mandir, Budhwari Bazar, P.O. & P.S. Korba, Chattisgarh, Pin No. 495677. (Owner of Truck) Respondents

CORAM: HON'BLE THE CHIEF JUSTICE

For the Appellant: Mr. Alok Lal, Advocate
For Resp. No.1: Mr. Nikhil Ranjan, Advocate
Mr. Ishan Ashish, Advocate

02 /Dated: 08.05.2026

I.A. No. 1787 of 2026

1. Heard learned counsel for the parties.
2. This I.A. seeks condonation of delay of 91 days in instituting this Appeal. On perusing the application, I am satisfied that sufficient cause has been shown. Hence, the delay is condoned and the I.A. is disposed of.

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3. With the consent of the learned counsel for the parties, this appeal is taken up for final disposal.
4. This appeal is directed against the judgement and Award dated 28th July 2025 made by the Motor Accident Claim Tribunal at Ranchi in Motor Accident Claim Case No. 545 of 2023.
5. Mr Alok Lal, the learned counsel for the appellant-Insurance Company, submitted that in this case, there was an admission that the

injured driver was driving the motorcycle without having any driving licence. He therefore submitted that no liability could have been foisted on the owner/driver/insurer of the truck bearing registration No. CG-12AR-7518, i.e. the insured vehicle.

6. Mr Alok Lal relied on **Rehmani Begum Vs. Krishan Pal, 2019 0 Supreme (Del) 30**, in which the learned Single Judge of the Delhi High Court has held that driving a motorcycle on a public road without a driving licence was a good ground to hold such a driver guilty of contributory negligence. He also relied on **Ramzan Ansari and Another Vs. Kavita Singh and others, 2011 ACJ 1063 (Jharkhand)**, in which it was held that driving a motorcycle without a valid licence raises a presumption of incompetence and contributory negligence in the event of an accident.

7. Mr Alok Lal submitted that the impugned Award has not considered this aspect of contributory negligence in the proper perspective, and therefore, the impugned Award warrants modification by apportioning at least 30% of the liability to the claimant.

8. Mr Ishan Ashish, the learned counsel for the claimant, submits that the Tribunal has correctly considered the evidence on record and negated the plea of contributory negligence. He submitted that no evidence was laid by the respondents on the aspect of contributory negligence. He pointed out that in this case, the FIR for rash and negligence was filed against the driver of the offending truck, and that by itself, is sufficient, inferring the accident was on account of the rashness and negligence of the truck driver.

9. Mr. Ishan Ashish, the learned counsel for the claimant submitted that in fact this a case of *res ipsa loquitur* because the evidence on record establishes that the offending truck dashed the claimant's motorcycle from the rear side. He submitted that the issue of the claimant not

possessing a licence, therefore, had no nexus whatsoever with the accident. He submitted that under such circumstances, there was no question of inferring any contributory negligence. He relied on **Sudhir Kumar Rana Vs. Surinder Singh and others, (2008) 12 SCC 436** to support his defence.

10. The rival contentions now fall for my determination.

11. The only point pressed in this appeal concerns contributory negligence.

12. The Tribunal framed Issue No. 3 in this matter, which reads as follows: -

“3. Whether injuries leading to disability of Sukul Lohra was result of road Traffic accident dated 27/09/2023 involving a Truck bearing Reg. No. CG-12AR-7518? Is it a case of contributory negligence?”

13. The record shows that the claimant was driving the motorcycle when the offending truck dashed this motorcycle from the rear, thereby seriously injuring the claimant. As a result of the accident, one of the limbs of the claimant had been amputated, about which there is no dispute.

14. The investigating authorities lodged an FIR against the truck driver. This was followed by the filing of a chargesheet against the truck driver. In **National Insurance Company Ltd. Vs Pushpa Ram, 2009 ACJ 287**, it was held that whenever criminal proceedings are placed on record upon completion of police investigations, that is sufficient to prove negligent driving by the driver of the offending vehicle. To the same effect are the observations of the Delhi High Court in the case of **United India Insurance Company Ltd. Vs. Dipak Goyal and others, 2014 (2) IAC 846 (Delhi)**.

15. Though the appellant-Insurance Company did plead a case of contributory negligence, no evidence as such was led on this aspect. The claimant/victim has examined himself, and his testimony was not dented by cross-examination.

16. The most crucial factor in the present case is that the offending vehicle, i.e., the truck, dashed the injured from the rear. The truck is a much heavier and larger vehicle than the motorcycle which the claimant was driving. Further, this is not a case of a head-on collision; rather, the truck dashed the claimant's motorcycle from behind. Therefore, this is a case where the doctrine of *res ipsa loquitur* would be clearly applicable.

17. The evidence on the record suggests that the claimant did not have a driving licence. Perhaps, for this, the claimant would be answerable before a court of law. But there is no general proposition that every time a driver drives without a licence, it must be conclusively held that such a driver has contributed to the accident.

18. In paragraph 10 of **Rehmani Begum (supra)**, there are some observations to the effect that a motorcycle driver, without any valid driving licence, is not even supposed to be on a public road. Similarly, in **Ramzan Ansari (supra)** there are observations that driving a motorcycle without a valid licence leads to a presumption of incompetence and contributory negligence in the event of an accident.

19. As against the above two decisions, there is the decision of the Hon'ble Supreme Court in the case of **Sudhir Kumar Rana (supra)**. *In this case, the Hon'ble Supreme Court has held that if a person drives a vehicle without a licence, he commits an offence. The same, by itself, may not lead to a finding of negligence as regards the accident. It is one thing to say that such a person was not in possession of any licence, but quite another to return a finding that this person was driving the vehicle*

rashly and negligently. If such a person was not driving rashly or negligently, which contributed to the accident, only because he did not have a licence, he could not be held guilty of contributory negligence. The matter might have been different if, by reason of his rash and negligent driving, the accident had taken place.

20. This means there must be a rational nexus between the driver's lack of a licence and the cause of the accident. If there is some nexus, then obviously, a case of contributory negligence can be said to have been made out. However, if there is no nexus, then there is no question of presuming contributory negligence. In any event, such a presumption can never be held to be conclusive in such matters.

21. In the present case, as noted above, the offending vehicle, which was a truck, dashed against the claimant's motorcycle from the rear. Considering that the truck is a much larger vehicle, the truck driver was expected to display greater duty of care, and, further, the most crucial circumstance was that the truck was dashed from the rear, there is no question of any nexus between the claimant's lack of a licence and the accident.

22. In such circumstances, considering the law laid down by the Supreme Court in **Sudhir Kumar Rana (supra)**, the plea of contributory negligence cannot succeed. In this case, the truck driver also did not testify. The appellant did not examine any witnesses to establish contributory negligence. Even if it is held that the burden of proving the claim and the issue of rashness and negligence was on the claimant, in the facts of the present case the onus did shift upon the respondents in the claim petition. This onus was never discharged by any of the respondents.

23. Against the two decisions relied upon by the learned counsel for the appellant-Insurance Company, I will have to follow the binding precedent in **Sudhir Kumar Rana (supra)**, a decision of the Hon'ble Supreme Court, which explains how a person driving a vehicle without a licence may commit an offence. However, that by itself could not lead to the conclusion or any event and an irrebuttable presumption that such a person contributed to the accident. For sustaining such a conclusion, a rational nexus between such a person not possessing a driving licence and the cause of the accident will have to be established. In this case, such a nexus has not been established at all.

24. Accordingly, this appeal fails and is dismissed without any order for costs. Pending Interlocutory Applications, if any, do not survive and are disposed of.

25. Mr Alok Lal submits that the entire compensation amount, together with interest, has already been deposited with this Court. If so, the claimant would be entitled to withdraw the same upon his furnishing of identity and bank details. The registry must transfer the deposited amount, together with interest that shall have accrued there, into the claimant's bank account as expeditiously as possible, and under no circumstances should the amount be disbursed other than through the banking channels.

26. The statutory deposited amount can be refunded to the appellant-Insurance Company along with interest, if any, that shall have accrued on the said amount.

(M.S. Sonak, C.J.)

May 08, 2026

N.A.F.R.

APK/VK

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