

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Misc. Appeal No.505 of 2015

The Divisional Manager, New India Assurance Company Ltd., Ashoka Automobile Building, Main Road, Branch Office at Sabitri Sadan, 2nd Floor, Saheed Chowk, Katchury Road, Ranchi represented through its Asst. Manager and duly constituted attorney of the New India Assurance Company Ltd. Ranchi Division, 2nd Floor, Sethi Corporate, P.P. Compound, P.O. Chutia P.S. Hindpiri, District Ranchi Appellant

Versus

1. Pankaj Kumar son of Tarkeshwar Prasad Agarwal, resident of Q. No.C-11, P & T Colony, P.O. and P.S. Lalpur, Ranchi
2. Md. Ehsan Ansari son of Sri Usman Ansari, resident of House No.12, Forahara Toli, Kedal, P.O. and P.S. Sadar, District Ranchi

.... Respondents

With

Misc. Appeal No.178 of 2017

Pankaj Kumar son of Tarkeshwar Prasad Agarwal, resident of Q. No.C-11, P & T Colony, P.O. and P.S. Lalpur, Ranchi Appellant

Versus

1. The Divisional Manager, New India Assurance Company Ltd., DO-1 Ashoka Automobile Building, Main Road, Ranchi, Branch Office at Sabitri Sadan, 2nd Floor, Saheed Chowk, Katchury Road, Ranchi. P.O. G.P.O., P.S. Kotwali, District Ranchi
2. Md. Ehsan Ansari son of Sri Usman Ansari, resident of House No.12, Forahara Toli, Kedal, P.O. and P.S. Sadar, District Ranchi

.... Respondents

CORAM: HON'BLE MR. JUSTICE GAUTAM KUMAR CHOUDHARY

For the Appellant/Insurance Co. : Mr. G.C. Jha, Advocate

For the Owner/Respondent No.2: Mr. Arvind Kumar Lall, Advocate

Mr. Shivam Singh Kashyap, Advocate

Mr. D. Arti Kumari, Advocate

For the Claimant

: Mr. Nikhil Ranjan, Advocate

Order No.12 / Dated : 07.04.2025

Misc. Appeal No.505 of 2015

Insurance Company is in appeal against the judgment and award of compensation in Compensation Case No.187 of 2010 whereby and whereunder a compensation of Rs.5,05,530/- was awarded in favour of the claimant under Section 166 of the Motor Vehicle Act.

2. The appeal is mainly on the ground that the vehicle was being driven by the driver- Mahesh Munda, who was not having valid driving license at the time of accident, as neither driving license was produced before the Tribunal nor details thereof was given in the claim application.

3. In order to clear the mist of doubt regarding validity of driving license, a report was called for vide order dated 29.11.2022 from D.T.O., Ranchi which has been received vide letter no.636 dated 20.03.2025, wherein it has been stated that Mahesh Munda had a valid driving license to drive LMV from 04.01.2006 and HGV from 07.06.2008 and license renewal validity was from 02.02.2009 to 01.02.2012.

4. In the present case, there is no dispute whatsoever that accident took place on 30th November, 2009 and therefore, the plea that driver was not having valid driving license, has no legs to stand.

Misc. Appeal No.505 of 2015 filed by the Insurance Company fails and is, accordingly, rejected. Statutory amount deposited at the time of filing of claim application to be remitted to be paid to the claimant and adjusted the final compensation amount.

Misc. Appeal No.178 of 2017

5. Misc. Appeal No.178 of 2017 has been filed by the injured/claimant for enhancement of the compensation amount *inter alia* on the ground that as per the pleadings, the definite case of the claimant/appellant was that at the time of accident he was 16 years of the age and was student of Class XI. As per para 5 of the claim application, no monthly income had been pleaded and it has been stated to be “not applicable”.

6. As per the claim case, the claimant suffered a motor accident involving truck bearing registration no. JH 02B 3472 resulting in grievous injury which caused permanent disablement to the extent of 40% as assessed in the disablement certificate (Exhibit 4). Learned Tribunal awarded the compensation under the following heads: -

Expenses relating to treatment, hospitalization, medicines, transportation, nourishing, food and miscellaneous expenditure	Rs. 4,05,530/-
Future and medical expenses	Rs. 25.000/-
Damages for pain, suffering and trauma as a consequence of the injury	Rs 50,000/-
Loss of amenities and loss of expectation of life or loss of prospects of marriage	Rs. 50,000/-
Total	Rs.5,30,530/-

7. It is submitted by the learned counsel on behalf of the appellant that only medical expenditure has been allowed in award, but no compensation has been assessed by taking the notional income of the deceased and also consequent future prospect with respect to it. Reliance is placed on *V. Mekala Vs M. Malathi*, (2014) 11 SCC 178 which involved a student aged 16 years, who had 75% disablement rendering both his legs dysfunctional.

8. It is submitted by learned counsel on behalf of Insurance Company, Mr. G.C. Jha that the deposition of the claimant demonstrates that their disability was superficial in nature and has not in any way adversely affected the earning capacity of the claimant or his future academic prospect. Claimant has deposed that the accident took place in 2009 when he was student of Class XI and thereafter, passing XIIth examination on 13.08.2011, he got duly admitted in BIT Mesra and at the time of his evidence, he was a student of BIT Mesra doing computer engineering.

9. Facts are not in dispute that the claimant met with a motor vehicle accident involving a truck which was under the insurance cover of the respondent-Company. Nature of injury stated in the disability certificate is, post traumatic stiffness and no movement of right thumb. A 40% disability has been assessed by the medical board.

10. This Court is of the view that the fact of the present case is distinguishable from the authority relied upon as in case of *V. Mekala* (supra) as the degree of disability is much greater than that in the present case. However, considering the disability suffered in the motor vehicle accident resulting in permanent disability of right hand, which caused impairment of the movement of the thumb, there is merit in the argument on behalf of the appellant that the said injury adversely affected the earning capacity of the claimant. Learned Tribunal fell in error, in not computing compensation under the head of loss of income and taking notional income of the claimant.

11. Taking notional income of the deceased at Rs.25,000/- (Rupees twenty five thousand only) per annum as per the ratio of *Kurvan Ansari Vs Shyam Kishore Murmu*, 2021 SCC OnLine SC 1060, the claimant shall also be entitled to further compensation under the following heads: -

Sl. No.	Heads	Calculations
1.	Notional Income+ 15% Future Prospects per annum	Rs.25000/-+Rs. 3,750/- = Rs 28,750/-
2.	Loss of earning as a result of 40% disability per annum	Rs.11,500/-
3.	Applying multiplier of 18 for the age of claimant at 16 years	Rs.11,500 x 18 = Rs.2,07,000/-

12. Thus, the claimant shall be entitled to compensation for a further sum of Rs.2,07,000/-, over and above the amount already awarded by the learned Tribunal with interest @ of 6% from the time of filing of claim application. Insurance Company shall make the payment within a month of this order.

Misc. Appeal No.178 of 2017 is accordingly, allowed. Interlocutory Application, if any, is disposed of.

It goes without saying that the amount already paid shall be deducted from final compensation amount.

(Gautam Kumar Choudhary, J.)

Anit