IN THE HIGH COURT OF JHARKHAND AT RANCHI

M.A. No. 33 of 2012

1.Tulasmini Devi, widow of Late Sanjay Kumar.
2. Sudha Kumari, aged about 10 years, daughter of Late Sanjay Kumar.
3. Vikash Kumar aged about 8 years, son of Late Sanjay Kumar.
4. Nitish Kumar, aged about 6 years, son of Late Sanjay Kumar.
5. Savitri Devi, wife of Sheo Dayal Sao.
6. Sheo Dayal Sao, son of Late Manohar Sao.,
All of resident of Village Pagar, PO Simariya P.S. Simaria, District Chatra

Appellant nos. 2 to 4 minor son and daughter and they are represented by appellant no.1

.... Appellants

Versus

1. Md. Rauf, son of Mansoor Alam, resident of Village Kamta, P.O.+P.S. Rohan, District Chatra. AT P/A-R/village Pelawal, PO+PS-Katkamsandi Dist-Hazaribagh
2. Manoj Kumar, son of Shri Bhuneshwar Sao, resident of Village Belgadda, P.O.+ P.S. Simaria, District Chatra.
3. The New India Insurance Company Limited at Ramgarh Branch, Main Road, Ramgarh, P.O. & P.S. Ramgarh, District Ramgarh.

... Respondents

CORAM: HON'BLE THE CHIEF JUSTICE

For the Appellants: Mr. Vijay Kumar Sharma, Advocate
For Resp. Nos. 1 & 2: None
For Resp. No. 3: Mr. Alok Lal, Advocate.

29/Dated: 17.07.2026

1. Heard Mr Vijay Kumar Sharma, learned counsel for the appellants and Mr Alok Lal, learned counsel for the 3rd respondent (Insurance Company). The 1st and the 2nd respondents have been duly served but have not bothered to appear.

2. This appeal is directed against the order dated 29.11.2011 made by the Motor Vehicle Accident Claim Tribunal cum District & Sessions Judge-I at Chatra (Tribunal) in Claim Case No. 17 of

2004 on the ground that the compensation awarded is inadequate and does not represent "just compensation".

3. Mr Vijay Kumar Sharma has submitted that the evidence on record shows that the income of the deceased-Sanjay Kumar was Rs. 5,000/- to Rs.6,000/- per month. He submitted that no addition has been made towards future prospects and the deduction of one-third for personal expenses is incorrect and should have been only one-forth. He submitted that compensation towards consortium should have been awarded in favour of all the claimants and not just one of the claimants. He however, admitted that multiplier in this case would be 17 and not 18. He submitted that interest of 6 per cent per annum is also less and the same should be enhanced to 7.5 per cent. He relied upon certain decisions in support of his contentions.

4. Mr Alok Lal submitted that the claim petition was initially filed under Section 140 of the M.V. Act and later converted to one under Section 163A of the M.V. Act. Accordingly, he submitted that compensation as per the structured formula alone becomes payable. He relied on the decisions in ***Deepal Girishbhai Soni and Ors. Vs. United India Insurance Co. Ltd., Baroda, (2004) ACJ 934*** and ***Santoshi Minz and Ors. Vs. The Divisional Manager (legal) the Oriental Insurance Co. Ltd. and Ors., 2024 (4) JCR 670*** to support his contentions.

5. Mr Alok Lal's contention based on Section 163A of the M.V. Act is entirely misconceived. This is because the record shows that in this case, though the petition referred to Section 140 of the M.V. Act and was later on amended to a petition under Section 163A of the M.V. Act, there are further records which show that the claimants sought an amendment which was allowed and the petition was duly converted, treated and admitted as one under Section 166 of the M.V. Act.

6. In this regard, the entries in the order-sheet (*roznama*) for the dates 11.12.2008, 22.12.2008 and 09.02.2009 are relevant. Accordingly, there was nothing wrong in disposing of the claim petition as one instituted under Section 166 of the M.V. Act. From the perusal of the impugned order dated 29th November 2011, the aforesaid is clear and therefore, on behalf of the Insurance Company, such a submission should not even have been made. In any event, such a submission contrary to the records deserves to be rejected and is hereby rejected.

7. Accordingly, the decisions cited by Mr Alok Lal would not apply to this case since this was a petition under Section 166 of the M.V. Act.

8. On the issue of enhancement of compensation, at least three witnesses have deposed to the deceased Sanjay Kumar operating a dairy and being an agriculturist. They have also deposed that his income was in the range of Rs.5,000/- to Rs.6,000/-. There was no cross-examination to challenge the deposition of these witnesses on oath.

9. Reference can be made to the deposition of A.W.-1, the father of the deceased-Sanjay Kumar, A.W.-2 and A.W.-4. All these witnesses have deposed as above, and their testimony was not even challenged in cross-examination.

10. Therefore, it would be safe to determine the income of the deceased-Sanjay Kumar as Rs.5,000/- per month instead of the Rs.3,000/- determined by the Tribunal. To this, a 40 per cent addition is due towards future prospects, meaning that the annual income of the deceased would be taken at Rs.84,000/-.

11. Tribunal has deducted one-third; then, in fact, considering the fact that there were six dependents, the deductions could have been only one-fourth. Therefore, after deducting Rs. 21,000/-, the yearly income of the deceased may be safely taken at Rs.63,000/-.

12. The deceased was 30 years at the time of his demise in a vehicular accident, and therefore, the multiplier applicable would be 17 and not 18 as incorrectly held by the Tribunal. The compensation towards dependency would therefore come to Rs.10,71.000/-.

13. To the above amount, the claimants would be entitled to compensation towards consortium assessed at Rs.40,000/- for each of the claimants, i.e. Rs.2,40,000/-. Besides, an amount of Rs.15,000/- is liable to be awarded towards loss of estate and another Rs. 15,000/- towards funeral expenses.

14. Thus, the total compensation will have to be determined at Rs. 13,41,000/-. In the peculiar facts of the present case, the interest amount awarded warrants no interference and is maintained at 6 per cent per annum. However, it is clarified that this interest @ 6 per cent per annum will have to be computed from the date of filing of the claim petition until effective payment.

15. Mr Vijay Kumar Sharma argued that the finding about contributory negligence has been casually made and the same is not supported by the evidence on record. In any event, he submitted that the claimants are entitled to be paid the entire determined compensation by the 3rd respondent and if necessary, the 3rd respondent could be given the liberty to recover the compensation amount from the first respondent.

16. As regards the issue of contributory negligence, the finding regarding the same warrants interference. Admittedly, the accident was between the commander jeep bearing registration No. JH-02-9975 and the motorcycle bearing registration No. JH-2B-9700, which the deceased Sanjay Kumar was driving. Apart from the fact that the commander jeep is a much heavier and larger vehicle, the record shows that an F.I.R. followed by a charge-sheet was filed against the driver of the commander jeep. This was sufficient to conclude that the accident took place on account of the rash and negligent driving of the driver of the commander jeep without any contribution from deceased Sanjay Kumar.

17. The finding about deceased Sanjay Kumar contributing to the extent of 40 per cent to the accident is vitiated by perversity, and accordingly, the same is set aside. The entire compensation amount is therefore now to be paid by the 3rd respondent-Insurance Company.

18. The 3rd respondent-Insurance Company is therefore directed to pay the entire compensation amount after deducting the payments already made to the claimants under the impugned Award within six weeks from today. This compensation amount will have to be deposited in this Court after giving due notice to the learned counsel for the appellants. Upon deposit, the Registry to transfer the compensation amount in the following proportions to the appellants: -

(a) 15 per cent of the compensation amount should be paid to Savitri Devi (mother of Sanjay Kumar-deceased);

(b) 15 per cent of the compensation amount should be paid to Sheo Dayal Sao, (father of the deceased-Sanjay Kumar);

(c) 30 per cent of the compensation should be paid to Tulasmini Devi, widow of the deceased-Sanjay Kumar; and

(d) the balance 40 per cent of the compensation should be shared equally between Sudha Kumari, Vikash Kumar and Nitish Kumar, the daughter and the two sons of deceased-Sanjay Kumar.

19. The Registry to transfer the amounts directly into the Bank accounts of the appellants. Under no circumstances should the deposited amount be paid otherwise than through usual banking channels.

20. The Registry to complete the above exercise at the earliest so that the appellants get the compensation due to them on account of the death of Sanjay Kumar in a vehicular accident on 07.10.2003.

21. This appeal is therefore allowed, and the compensation amount is enhanced to Rs. 13,41,000/- with interest @ 6 per cent per annum commencing from the date of institution of the claim petition till the actual payment of this amount**.**

22. IAs, if any, pending in this appeal, will not survive and are disposed of.

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

July 17th, 2026
N.A.F.R.
APK/VK /Cp2
Uploaded on 23.07.2026