

**IN THE HIGH COURT OF JHARKHAND AT RANCHI**  
**M.A. No. 54 of 2015**

United India Insurance Co. Ltd. through Branch Manager, Hazaribagh  
Branch Officer, P.O., P.S and District Hazaribagh through its Senior  
Divisional Manger-S.N. Singh, son of late Ranjit Singh, resident of Kanta  
Road, P.O. Ranchi University, P.S. Goda, District-Ranchi  
..... Appellant

VERSUS

1. Jai Prakash Kushwaha @ Prakash Verma @ Prakash resident of  
village Dharampur, P.S. Sarath, P.O. Bamaj, District-Deoghar
2. Asgar Ali, son of Md. Kasim, resident of Pagmil, P.S. Hazaribagh,  
Sadar, P.O. and District-Hazaribagh  
..... Respondents

**CORAM: HON'BLE MR. JUSTICE SANJAY KUMAR DWIVEDI**

For the Appellant : Mr. Ashutosh Anand, Advocate  
For the Resp. No.1 : Mr. Arvind Kumar Lal, Advocate

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**18/Dated: 30.04.2026**

By order dated 18.08.2025 notice upon respondent no.2 (owner of the bus) was said to be validly served. However, nobody appeared on behalf of the respondent no.2. Thereafter, the matter was taken up on 2.2.2026 and 24.02.2026 and inspite of that till date respondent no. 2 chosen not to appear as such the appeal is being heard in absence of respondent no.2.

2. Heard Mr. Ashutosh Anand, learned counsel for the appellant and Mr. Arvind Kumar Lal, learned counsel for the respondent no.1-claimant.

3. This appeal has been preferred against the judgment dated 16.10.2014 passed by the learned Presiding Officer, Labour Court, Deoghar in W.C. Case No. 35 of 2012.

4. Mr. Ashutosh Anand, learned counsel for the appellant submits that claim case was filed against the appellant as respondent no.1 has got injured being employed as conductor of Bus of respondent no.2 and the said offending vehicle (bus) was insured with the appellant.

5. In the claim case, it was alleged that the respondent no.1 (claimant) was employed as conductor and he was working in Bus of

respondent no.2 and during his duty, he got multiple fracture injuries in his legs and other parts of the body on 22.5.2012 at Simra "Jungle" N. H. 33 as the offending bus dashed and collided to the parked truck. The claimant-conductor got serious injury. His both legs became fracture. His left leg thigh bone and bone below left thigh bone was broken into pieces. His right leg below thigh was also broken. His lip was also cut and his 9 teeth were broken. It has been further alleged that he got treatment firstly at Referral hospital Mandu from where he was referred to RIMS, Ranchi by the doctor seeing his condition serious. On 22.5.2012, the claimant was admitted at RIMS Ranchi at 6.00 P.M. under the treatment of Dr. C. B. Sahay, Neuro Surgeon unit. After treatment, he was discharged on 28.5.2012. Further the claimant also got treatment at Popular Nursing Home, Dhanbad from 25.5.12 to 2.8.2012 and his leg was operated twice on 16.6.2012 and on 24.7.2012. Further he got treatment of his teeth on 4.6.2012. On 5.7.2012, one lock of the Jaw was opened and on 11.9.2012 all locks of the Jaw were opened. During his treatment, both legs of the claimant has been inserted with permanent steel rod. The claim was made that he has become permanently disabled. It is further alleged that the claimant has spent Rs. 1,50,000/- (rupees one lac and fifty thousand) in his treatment and in future lacs of rupees would be further spent for future treatment. In this background, Mandu P.S. Case no. 139 of 2012 was lodged on the fardbeyan of one Binod Kumar. Offending bus no. JH-02B-1986 was seized and after investigation charge sheet has been submitted in this case. It is further alleged that the claimant became permanently disabled due to multiple injuries over his head, legs, teeth, lip and other parts of the body. The claimant was conductor earning Rs.6,000/- (Rupees Six Thousand) per month plus Rs. 100/- (Rupees One Hundred) per day as "khoraki" and he was under age of 40 years at the time of the accident. It is also stated that the claimant/appellant

gave notice to his employer for payment of compensation by telephone but no notice has been taken by the appellant. Thereafter, the claimant filed the case before the court for compensation for Rs. 12,00,000/- (Rupees Twelve Lacs) with medical expenses and interest @ of 12 percent per annum since 22.6.2012. i.e. after one month of the accident. It is also disclosed that the accident occurred in Hazaribagh district however, the claimant is a resident of place within the jurisdiction of Deoghar district. Thereafter the claimant filed the case before the Deoghar court.

6. Mr. Ashutosh Anand, learned counsel for the appellant raised the points that learned Presiding Officer has declared the claimant 100 % disable which is contrary to the documents on record. According to him after the accident, claimant has got his conductor licence renewed by way of Exhibit A from 10.07.2012 to 09.07.2013. By way of referring the said exhibit he submits that if a person was 100% disabled there was no question of renewing the conductor's licence. He also submits that the driver of the bus was not having valid driving licence and in view of that also the claim of the claimant against the insurance company was not sustainable and in view of that the right to recovery provided to the appellant is also not in accordance with law. On these grounds, he submits that judgment passed by the learned President Officer, Labour Court may kindly be modified.

7. On the other hand, Mr. Arvind Kumar Lal, learned counsel for the respondent no.1-claimant vehemently opposes the prayer and submits that 100% disability has been proved as the conductor was not able to stand without escort. He further submits that in both the legs iron rods have been inserted and some how he is pulling his life. He next submits that if the conductor's licence has been renewed later on that is nothing to do as the appellant herein has not been able to prove before the learned Presiding Officer

that the claimant was not having 100% disability. He also submits that the driver of the bus was having valid driving licence and onus now lies upon the appellant to prove that fact, that has not been proved before the Presiding Officer, Labour Court and in view of that the contention of the learned counsel for the appellant with regard to licence of the driver, is not tenable. He further submits that the case is arising out of Employees Compensation Act, 1923. By way of referring Section 30 of the said Act, he submits that only on substantial question of law the case under the Employees Compensation Act, 1923 can be admitted. According to him facts are involved and no question of law is there and in view of that this miscellaneous appeal may kindly be dismissed.

8. Admittedly, the accident has taken place that is not denied and that is further proved in the light of F.I.R being Mandu P.S. Case No. 139 of 2012 in which chargesheet has been submitted. The learned Presiding Officer has framed nine issues to decide the said claim case. Issue No. VI was with respect to "whether the claimant was an employee of the offending bus and he got serious injuries resulting to permanent disablement during his duty as conductor in the said bus". While deciding the said issue the learned Presiding Officer has considered Exhibit-1 by which it was proved that the claimant was the conductor of the offending vehicle at the time of accident. Exhibit-2 was the conductor's licence. The documents filed by the appellant herein being Exhibit-A was also found to be proved the said fact. Exhibit-C filed by the appellant also supported the fact that the claimant was the conductor of the offending vehicle and the owner of the vehicle was Asgar Ali and the surveyor of the appellant has issued letter to provide driving licence of the driver and the chargesheet of the accident case and in view of that the learned Presiding Officer has found that that the appellant has admitted that the claimant was the conductor of the said offending bus and he has sustained injuries at the

relevant time of accident caused by the driver of the said bus. The oral evidence of the claimant was also on the same line. During course of his duty, the said bus met with an accident pursuant to that serious multiple injuries have been received by the claimant in both legs as well as in teeth, lip and on the head of the claimant. In view of that discussion that Issue No. VI was decided in favour of the claimant.

9. Issue No. VIII was with regard to entitlement of the claim that what was the compensation amount and who will be liable for payment of the same. It has been argued by the learned counsel for the claimant that he was earning Rs. 6,000/- p.m in addition to Rs. 100/- per day as Khoraki and due to said injury there was complete loss of earning as there is 100% fracture injury in both the legs and claimant was unable to stand without escort. He became unfit for doing his work as conductor. Besides that, there are also other injuries i.e head injury, injuries in teeth, and lips etc. It was also argued that in view of fracture in both legs and due to which rods were inserted and there is 100% functional disability. The learned Presiding Officer has relied certain cases as discussed in the judgment and found that since the claimant was unable to stand without escort and unfit for doing conductory work to collect ticket in crowded bus by moving in the same and in view of that the learned Presiding Officer has held that the claimant was having 100% disability and therefore has directed the appellant/O.P. No.2 to pay compensation to the claimant to the tune of Rs. 9,50,317/-. Further direction was made to pay by the appellant and recover from the owner.

10. The claimant has suffered the said injuries and his both legs have been fractured and was operated by inserting iron rod, that has been proved.

11. To assess the quantum of compensation to be awarded, the

Hon'ble Supreme Court has considered whether permanent disability caused has any adverse effect on the earning capacity of the claimant, as has been held by the Hon'ble Supreme Court in the case of "**Sandeep Khanuja V. Atul Dande and Anr. 2017 (3) SCC 351** wherein para 14 it has been held as under :-

*"14. The crucial factor which has to be taken into consideration, thus, is to assess as to whether the permanent disability has any adverse effect on the earning capacity of the injured. In this sense, MACT approached the issue in the right direction by taking into consideration the aforesaid test. However, we feel that the conclusion of MACT, on the application of the aforesaid test, is erroneous. A very myopic view is taken by MACT in taking the view that 70% permanent disability suffered by the appellant would not impact the earning capacity of the appellant. MACT thought that since the appellant is a Chartered Accountant, he is supposed to do sitting work and, therefore, his working capacity is not impaired. Such a conclusion was justified if the appellant was in the employment where job requirement could be to do sitting/table work and receive monthly salary for the said work. An important feature and aspect which is ignored by MACT is that the appellant is a professional Chartered Accountant. To do this work efficiently and in order to augment his income, a Chartered Accountant is supposed to move around as well. If a Chartered Accountant is doing taxation work, he has to appear before the assessing authorities and appellate authorities under the Income Tax Act, as a Chartered Accountant is allowed to practice up to Income Tax Appellate Tribunal. Many times Chartered Accountants are supposed to visit their clients as well. In case a Chartered Accountant is primarily doing audit work, he is not only required to visit his clients but various authorities as well. There are many statutory functions under various statutes which the Chartered Accountants perform. Free movement is involved for performance of such functions. A person who is engaged and cannot freely move to attend to his duties may not be able to match the earning in comparison with the one who is healthy and bodily abled. Movements of the appellant have been restricted to a large extent and that too at a young age. Though the High Court recognised this, it did not go forward to apply the principle of multiplier. We are of the opinion that in a case like this and having regard to the injuries suffered by the appellant, there is a definite loss of earning capacity and it calls for grant of compensation with the adoption of multiplier method, as held by this Court in Yadava Kumar v. National Insurance Co. Ltd:-*

*"9. We do not intend to review in detail state of authorities in relation to assessment of all damages for personal injury. Suffice it to say that the basis of assessment of all damages for personal injury is compensation. The whole idea is to put the claimant in the same position as he was insofar as money can. Perfect compensation is hardly possible but one has to keep in mind that the victim has done no wrong; he has suffered at the hands of the wrongdoer and the court must take care to give him full and fair compensation for that he had suffered.*

*10. In some cases for personal injury, the claim could be in respect of lifetime's earnings lost because, though he will live, he*

*cannot earn his living. In others, the claim may be made for partial loss of earnings. Each case has to be considered in the light of its own facts and at the end, one must ask whether the sum awarded is a fair and reasonable sum. The conventional basis of assessing compensation in personal injury cases and that is now recognised mode as to the proper measure of compensation—is taking an appropriate multiplier of an appropriate multiplicand."*

12. Merely because the conductor's licence of claimant was renewed later on by the claimant by way of Exhibit-A, it is not proved that the conductor has not suffered 100% disability. Thus, the contention of the learned counsel for the appellant with regard to Exhibit-2 it is not sufficient to modify the judgment of the learned Presiding Officer. The plea of driving licence of the bus driver has been taken and that has not been proved in the learned Labour Court. However, the learned Presiding Officer has held that owner has not appeared and he has not brought on record driving licence of the driver in that view of the issue of valid driving licence was decided against the owner and appellant herein has been put at liberty to pay and recover from the owner. As such on that point also judgment is not required to be modified.

13. Further the Presiding Officer, Labour Court has taken care of the fact that the onus was on the owner to prove that owner has not appeared in the said compensation case and in view of that the learned Presiding Officer has given the liberty to the appellant to comply the said judgment and recover the same from the owner.

14. In course of argument, it has been further pointed out that the said amount has already been paid to the claimant.

15. At the time accident the claimant was aged about 40 years and has a full life ahead as has been held in the case of "**Anant son of Sidheshwar Dukre V. Pratap son of Zhamnnappa Lamzane and Another (2018) 9 SCC 450**" wherein it has been held that for the purpose

of fair compensation is to restore the injured to the position he was in prior to the accident as best as possible. Paragraphs 12 and 13 of the said judgment is quoted herein below:-

*"12. in cases of motor accidents leading to injuries and disablements, it is well settled principle that a person must not only be compensated for his physical injury but also for the non pecuniary losses which he has suffered due to the injury. The claimant is entitled to be compensated for his inability to lead a full life and enjoy those things and amenities which he would have enjoyed, but for the injuries.*

*13. "The purpose of compensation under the Motor Vehicles Act is to fully and adequately restore the aggrieved to the position to the accident. This Court in Yadava Kumar V. National Insurance Company Ltd. explained "just compensation" in the following words:-*

*15. It goes without saying that in matters of determination of compensation both the tribunals and courts are statutorily charged with a responsibility of fixing a "just compensation". It is obviously true that determination of "just compensation" cannot be equated to be a bonanza at the same time the concept of just compensation obviously suggests application of fair and equitable principles and a reasonable approach on the part of the tribunals and courts. These reasonableness on the part of the tribunal and court must be on a large peripheral field."*

16. In light of section 30 of the Employees Compensation Act, only on the question of law, the appeal can be admitted.

17. In view of above discussions, there is no law point involved to admit the present miscellaneous appeal. The Court finds that no interference is required. As such, this miscellaneous appeal is hereby dismissed. Pending I.A, if any, stands dismissed.

18. Let the trial court record be sent back to the learned court forthwith.

Dt. 30.04.2026  
**Satyarthi/-A.F.R.**

**( Sanjay Kumar Dwivedi, J.)**