

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Misc. Appeal No.535 of 2016

Reliance General Insurance Company Limited, through its Associate
 Segment Head (Legal Claims) Sri Jitendra Kumar Pandit, son of Sri Rajendra
 Pandit, residing at 47A1/2, R.K. Ghoshal Road, P.O. & P.S. Kasba, District
 Kolkata Appellant

Versus

1. Mihi Mejhain, wife of Late Shyamlal Majhi
 2. Anil Marandi, son of Late Shyamlal Majhi
 3. Jaydev Marandi, son of Late Shyamlal Majhi
 4. Jairam Marandi, son of Late Shyamlal Majhi
 All residents of Village Bagdudih, P.O. Barlohi, P.S. Govindpur, District
 Dhanbad
 5. Biswajit Mahto, son of Ramayan Mahato, P.O. Searsole, P.S. Raniganj,
 District Burdwan (West Bengal)
- Respondents

CORAM: HON'BLE MR. JUSTICE GAUTAM KUMAR CHOUDHARY

For the Appellant : Ms. Swati Shalini, Advocate
 For the Respondent Nos.1-4 : Mr. Rahul Dev, Advocate

Order No.15 / Dated : 30.10.2025

Insurance Company is in appeal against the judgment and award of compensation in Title (Motor Vehicle) Suit No.258 of 2014 passed by learned District Judge-IX cum M.A.C.T., Dhanbad whereby and whereunder compensation under Section 166 of the Motor Vehicle Act has been awarded in favour of the claimants with liability fixed on the appellant- Insurance Company to pay the said amount.

2. The claimants have appeared through learned counsel before this Court, however the appeal is being heard ex-parte against the owner of the vehicle (respondent no.5), who had not appeared before the learned Tribunal.

3. The facts of the case are not much in dispute that Shayamlal Manjhi died in a motor vehicle accident on 25.06.2014 when his motorcycle was dashed by a truck bearing registration no.NL 01K 4436. It is also not in dispute that the said truck was under the insurance cover of appellant- Insurance Company.

4. Appeal is preferred on the ground that there was fundamental breach of policy of insurance, as the permit of the offending vehicle has not been adduced into evidence. Despite this, right of recovery has not been

granted, rather it has been stated in the award that a separate suit is to be filed for it.

5. It is further contended that the gross income of the deceased has been reckoned by the learned Tribunal in assessing his income without deducting the income tax from his annual income. Accident took place in the year 2014 when the income tax slab for tax exemption was upto Rs.2,50,000/- and his income was taxable after Rs.2,50,000/- @ 10% which has not been deducted from his annual income. Although it has been observed in para 2 that he was income tax payee.

6. Learned counsel on behalf of claimants has defended the impugned award.

7. Having considered the submissions advanced on behalf of both sides, it is evident that the offending vehicle was a commercial truck, but the owner of the vehicle neither appeared nor he produced the permit or driving license and therefore, it was a fundamental breach of policy of insurance in view of ratio laid down by the Hon'ble Supreme Court in the case of *Amrit Paul Singh & Another Vs. TATA AIG General Insurance Limited*, (2018) 7 SCC 558, Insurance Company will have a right of recovery after making full and complete payment of the compensation amount.

8. So far quantum of compensation is concerned, as per the ratio laid down by the Hon'ble Supreme Court in *National Insurance Company Ltd. vs. Pranay Sethi*, reported in (2017) 16 SCC 680, the final compensation amount will come as under: -

Annual Income	Rs.5,21,800/-
Income after deducting tax	Rs.4,92,440/-
There being four dependants, there will be a deduction of 1/4 th on the living and personal expenses of the deceased	Rs.1,23,110/-
Income after tax deduction minus living and personal expenses of the deceased Rs.4,92,440/- - Rs.1,23,110/- =	Rs.3,69,330/-
Future prospect @ 15% 15% of Rs.3,69,330/- =	Rs.55,399.50/-
Loss of annual income Rs.3,69,330/- + Rs.55,399.50/- =	Rs.4,24,729.50/-
Loss of dependency on taking a multiplier of 9	Rs.38,22,565.50/-
Non-Conventional head	Rs. 77,000/-
Total	Rs.38,99,565.50/-

9. Under the circumstance, the Insurance Company is directed to make payment of **Rs.38,99,565.50/-** with interest @ 7.5% from the date of filing of the claim application, within a month of the order, which shall be disbursed to the claimants by the Tribunal on terms fixed by it.

Miscellaneous Appeal is disposed of. Interlocutory Application, if any, is disposed of.

Statutory amount be remitted to the Tribunal for disbursement to the claimants in adjustment to the final compensation amount. Insurance Company/Appellant will have right to recover the amount paid to the claimants from the owner of the vehicle. It goes without saying that amount which has already been paid, will stand deducted.

(Gautam Kumar Choudhary, J.)

Anit

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