

IN THE HIGH COURT OF JHARKHAND AT RANCHI

M.A. No. 149 of 2023

1. Mani Bala Devi, aged about 45 years, wife of Late Ram Janam Singh.
 2. Kumar Harsh Raj, aged about 22 years, son of Late Ram Janam Singh.
 3. Rani Kumari, aged about 24 years, daughter of Late Ram Janam Singh.
- All are resident of Village & Post Office- Chauparan, P.S.-
Chauparan, District- Hazaribag.

..... **Appellants**

Versus

1. Auto Mobile Carriers, through Sanjay Jain Kothari, Chairman, At H. No. 244, 1st Floor, Sector-14, Gurgaon, P.O. & P.S.- Gurgaon, District- Gurgaon (Haryana).
2. Ashok Sah, son of Late Ramji Sah, At: Malwar, Sheo Sagar, P.O. & P.S.- Rohtas, District- Rohtas (Bihar).
3. The Oriental Insurance Company Ltd., near Jain Petrol Pump, Club Road, P.O. & P.S.- Hazaribagh, Hazaribagh.

..... **Respondents**

With

M.A. No. 235 of 2023

With

I.A. No. 6151 of 2023

Oriental Insurance Co. Limited, near Jain Petrol Pump, Club Road, Hazaribag, P.O. & P.S.- Hazaribag, through Jharkhand Legal Cell, S.N. Ganguli Road, P.O.- Ranchi, P.S.- Kotwali, District- Ranchi.

..... **Appellant**

Versus

1. Mani Bala Devi, wife of Late Ram Janam Singh.
 2. Kumar Harsh Raj, son of Late Ram Janam Singh.
 3. Rani Kumari, daughter of Late Ram Janam Singh.
- All resident of Village- Chauparan, P.O. & P.S.- Chauparan,
District- Hazaribag.
4. Auto Mobile Carriers, through Sanjay Jain Kothari, Chairman, At H. No. 244, 1st Floor, Sector-14, P.O.- Arjun Nagar, P.S.- Gurgaon, Gurgaon (Haryana).
 5. Ashok Sah, son of Late Ramji Sah, At: Malwar, Sheo Sagar, P.O.- Malwar, P.S.- Sheo Sagar, District- Rohtas (Bihar).

..... **Respondents**

CORAM: HON'BLE MR. JUSTICE SANJAY KUMAR DWIVEDI

For the Claimants /Appellants : Mr.S.T. Rizvi, Advocate

Mr. Sauray Anand, Advocate

Mr. Jayant Kumar Pandey, Advocate

For the Insurance Company-

Appellants : Mr. Manish Kumar, Advocate

8/ Dated: 10.07.2025

1. Since both these appeals arise out of the same impugned Award, both are heard together and are being disposed of by this common order.

2. Heard learned counsel for the parties.
3. M.A. No. 149 of 2023 has been filed at the instance of claimants challenging the Award dated 30.01.2023 passed in Motor Accident Claim Case No. 01 of 2018 by the learned Presiding Officer, MACT, Hazaribag for enhancement of awarded amount, whereas M.A. No. 235 of 2023 has been filed on behalf of the Insurance Company for setting aside the same award dated 30.01.2023.
4. Learned counsel appearing in M.A. No. 149 of 2023 submits that the claim application was filed stating therein that on 31.10.2017 at about 03.30 pm, the deceased (Ram Janam Singh) and his friend Amarjeet Dangi were returning from Barhi Sub-Division Court and when he reached in front of house of Kishun Yadav near Barhi bypass, a Container bearing Registration No. NI-01L-8926 driven by its driver rashly and negligently knocked down and crushed the deceased, as a result of which, the deceased received severe fatal injuries and died at the spot. Learned counsel submits that a first information report, being Barhi P.S. Case No. 298 of 2017 was lodged for the said occurrence under Sections 279 and 304A of the Indian Penal Code on the basis of written report of Ram Pravesh Singh against the driver (Ashok Sah) of the Container, bearing Registration No. NL-01L-8926 and one Bullet motorcycle bearing Registration No. JH-02AR-9673. Learned counsel further submits that the police has submitted charge-sheet against the driver of said Container vehicle for causing fatal injuries and death of the deceased was caused due to rash and negligent driving. Learned counsel further submits that the learned Tribunal has been pleased to allow the said claim case and awarded a sum of Rs. 64,72,998/- with interest at the rate of 6% per annum from the date of admission, that is since 06.03.2019 till date of final realization in favour of the claimants against the Insurance Company. Learned counsel submits that the learned Tribunal has not taken into consideration the audit report in calculating the income of the deceased, who was a businessmen dealing with several vehicles, like trucks, and only on the basis of income tax return, the amount of award was calculated and as such, the finding of the learned Tribunal is not correct. He further submits that rate of interest was required to be imposed at the rate of 7.5% per annum whereas only 6% per annum was imposed, that too with effect from the date of filing of the application, whereas

the alleged accident took place on 31.10.2017. On these grounds, the Award with respect to amount may kindly be modified to the above extent.

5. On the other hand, Mr. Manish Kumar, learned counsel appearing for the Insurance Company opposed the prayer of the claimants and submits that the learned Tribunal has rightly calculated the earning of the deceased based on the income tax return, which is the settled principle of law. He further submits that so far as audit report is concerned, the same is required to be considered on several circumstances and straightway that will not apply and loss due to business can be compensated by way of employing Manager or driver of other vehicles and in that view of the matter, the learned Tribunal has passed the award in its right perspective. So far as enhancement of award is concerned, learned counsel submits that there is no illegality in the award. He further submits that the appeal, being M.A. No. 235 of 2023 filed by the Insurance Company is fit to be allowed, as the learned Tribunal has failed to appreciate the fact that there is no loss of business in view of fact that other family members are taking care of the vehicles. In that view of the matter, learned counsel submits that the award may kindly be modified to that extent.

6. In view of the above submissions of the learned counsel for the parties, the Court has gone through the impugned award as well as the Trial Court record. It appears that learned Tribunal has framed Issue No. (v) with respect to income of the deceased and in deciding the said issue, the learned Tribunal has taken into consideration the income tax return of the deceased and calculated the amount of Award on the basis of income tax return filed by the deceased. Looking into the said calculation, the Court finds that calculation with respect to award has been rightly done by the learned Tribunal i.e. principle of calculation taking into consideration the income tax return and there is no illegality in the same. The contention of the learned counsel for the claimants-appellants in M.A. No. 149 of 2023 that the income of the deceased should be calculated on the basis of audit report of the deceased, is not being accepted by this Court, as quantum of income depends upon various factors. Income of deceased out of any other business would still continue to the family. Likewise, income derived from other vehicles is still continuing to accrue to the benefit of the family of the deceased, as the deceased was managing the vehicles during his life time and now the claimants may have to

engage someone to manage the vehicles after paying to the driver and manager of vehicles and that also still exists. The learned Tribunal has also awarded the amount under future prospect and in that view of the matter, there is no illegality in the same. The Court further finds that accident took place in the year 2017 whereas the claim application was filed in the year 2018 and the reason has been assigned to grant interest with effect from the date of admission. In that view of the matter, the contention of the learned counsel for the claimants/appellants is not being accepted by the Court. So far as contention of learned counsel for the Insurance Company in M.A. No. 235 of 2023 for modifying the award is concerned, in view of above finding of this Court, there is no merit in the submission of the Insurance Company and further it has been pointed out that the children of the deceased were minors. In that view of the matter, the contention of the learned counsel for the Insurance Company for modifying the award is not accepted by the Court.

7. Consequently, both the appeals are hereby dismissed.
8. Let the Trial Court record be sent back forthwith.
9. The statutory amount deposited by the Insurance Company in M.A. No. 235 of 2023 shall be transmitted back to the learned Tribunal by the Registry of this Court and the same will be utilised in satisfying the award in favour of the claimants.
10. The pending interlocutory application is also stand disposed of.

(Sanjay Kumar Dwivedi, J.)