

IN THE HIGH COURT OF JHARKHAND AT RANCHI

Misc. Appeal No. 557 of 2016

1. Kunti Devi wife of Late Shyam Sundar Yadav @ Shyam Yadav
2. Priyanka Kumari daughter of Late Shyam Sundar Yadav @ Shyam Yadav
3. Aarti Kumari daughter of Late Shyam Sundar Yadav @ Shyam Yadav
4. Bhagiya Devi wife of Late Hiranman Mahto

The appellant nos. 2 and 3 are presently minor as such they are being represented through their mother and natural guardian/next friend, Kunti Devi; the appellant no. 1 herein.

All resident of Village Nawadih, Post - Kumharlalo, P.S. Pirtand, District - Giridih

Versus Appellants

1. Shree Bajrangbali Transport Through its proprietor Shri Rajkishore Pandey Son of Late Sambhu Nath Pandey Resident of Kunwar Singh Colony Post and P.S. Chas, District – Bokaro (Jharkhand)
2. Sri Balmukund Choudhary Son of Vishundev Choudhary Resident of Jodhadih More Post and P.S. Bokaro District - Bokaro PIN code 827013
3. Ramchandra Patnayak Son of Gukul Bihari Patnayak Resident of Rana Pratap Nagar Chas, Post and P.S. Chas District - Bokaro (Jharkhand)
4. Reliance General Insurance Company Limited Through The Branch Manager 3rd Floor. Chandrakali Bhawan M-5, City Centre Bokaro Steel City Post and P.S Bokaro Steel City District-Bokaro (Jharkhand) PIN code-827004
5. Reliance General Insurance Company Limited 570, Naigaum Cross Road, Next to Royal Industrial Estate P,.S. Vadala, Post Vadala (West) District-Mumbai PIN code-400031
6. (i) Smt. Marachi Devi wife of Late Jagarnath Gope.
(ii) Anil Yadav Son of Late Jagarnath Gope (minor son) represented through his mother and natural guardian.

Resident of Village Nawadih, Post – Kumharlalo P.S. Pirtand, District –
Giridih

.. ... Respondents

With

Misc. Appeal No. 594 of 2016

- 1.(a) Marchi Devi, aged above 43 years, wife of Late Jagarnath Gope
- 1.(b) Anil Yadav (Minor Son) aged about 16 years, Son of Late Jagarnath Gope, represented through his mother and natural guardian, namely Marchi Devi
Resident of village – Nawadih, P.O. Kumharlalo, P.S. Pirtand, District Giridih.

... ... Appellants

Versus

1. Kunti Devi wife of Late Shyam Sundar Yadav @ Shyam Yadav.
2. Priyanka Kumari daughter of Late Shyam Sundar Yadav @ Shyam Yadav.
3. Aarti Kumari daughter of Late Shyam Sundar Yadav @ Shyam Yadav.
4. Bhagiya Devi wife of Late Hiranman Mahto.
The Respondent No. 2 and 3 are presently minor as such they are being represented through their mother and natural guardian/next friend, Kunti Devi, The respondent no. 1 herein.
All resident of Village Nawadih, P.O. Kumharlalo, P.S. Pirtand, District - Giridih.
5. Shree Bajrangbali Transport through its proprietor Shri Rajkishore Pandey son of Late Sambhu Nath Pandey, resident of Kunwar Singh Colony Post and P.S. Chas, District Bokaro (Jharkhand).
6. Sri Balmukund Choudhary son of Vishundev Choudhary, resident of Jodhadih more, P.S. Chas, PO-Bokaro, District Bokaro PIN Code 827013 (Jharkhand)
7. Ramchandra Patnayak son of Gokul Bihari Patnayak, reisent of Rana Pratap Nagar, Chas, P.O. and P.S. Chas, District-Bokaro (Jharkhand)
8. Reliance General Insurance Company Limited through the Branch Manager 3rd Floor. Chandrakali Bhawan M-5, City Centre, Bokaro Steel City, P.O. and P.S. - Bokaro Steel City, District Bokaro (Jharkhan) PIN Code 827004.
9. Reliance General Insurance Company Limitd 570, Naigaum Cross Road, Next to Royal Industrial Estate, P.S. Vadala, Post Vadala (West) District Mumbai PIN Code 400031

... ... Respondents

CORAM:

HON'BLE THE CHIEF JUSTICE

For the Appellants:	Mr. Arvind Kumar Lall, Advocate Mrs. D. Arati Kumari, Advocate Mr. Shivam Singh Kashyap, Advocate
For the Respondents:	Mr. Manoj Kumar Sah, Advocate Ms. Puja Kumari, Advocate Mr. Amarjeet Prasad, Advocate [in Misc. Appeal No. 557 of 2016]
For the Appellants:	Mr. Manoj Kumar Sah, Advocate Ms. Puja Kumari, Advocate Mr. Amarjeet Prasad, Advocate
For the Respondents:	Mr. Arvind Kumar Lall, Advocate Mrs. D. Arati Kumari, Advocate Mr. Shivam Singh Kashyap, Advocate Mr. Sanjay Kumar, Advocate Mr. Sanjay Kumar Tiwari, Advocate [in Misc. Appeal No. 594 of 2016]
For the Insurance Co.:	Mrs. Swati Shalini, Advocate [in both cases]

22 /Dated: 20.03.2026

1. Heard learned counsel for the parties.
2. The learned counsel for the parties agree that both these appeals can be disposed of by a common judgment and order, as they challenge the judgment and Award dated 22.07.2016 in MV Claim Case No. 52 of 2013, passed by the Motor Vehicle Accident Claims Tribunal, Giridih.
3. The Misc. Appeal No. 557 of 2016 is preferred by the original claimants, seeking, *inter alia*, enhancement of compensation and Misc. Appeal No. 594 of 2016 is preferred by the owner of the motorcycle involved in the accident, contending that there was no evidence to establish that the deceased driver was negligent and therefore, no liability should have been fastened upon the owner of the motorcycle.
4. The learned counsel for the appellants in Misc. Appeal No. 594 of 2016 [owner] has also submitted without prejudice that apportionment of liability to the extent of 50% on the appellant, i.e. the

owner of the motorcycle, was excessive because the motorcycle was admittedly a much lighter vehicle as compared to the truck with which the motorcycle suffered collision. He submitted without prejudice that liability to the extent of a maximum of 10% would have been fastened upon the appellant in Misc. Appeal No. 594 of 2016.

5. The learned counsel for the appellants in Misc. Appeal No. 557 of 2016, i.e. the claimants submitted that there was evidence of the deceased being a mason. He submitted that this position was accepted by the Tribunal, but the deceased's income was assessed for only 15 days in a month, rather than 26 days, which is the normal rule. He submitted that there was no reason to deny the claim that the deceased was earning Rs. 9,000/- per month from his work as a mason.

6. The learned counsel for the appellants in Misc. Appeal No. 557 of 2016 (original claimants) further submitted that no addition was made towards future prospects, and even the consortium compensation was not consistent with the law laid down in **Sarla Verma (Smt) and others Vs Delhi Transport Corporation and another, (2009) 6 SCC 121** and **National Insurance Company Limited Vs. Pranay Sethi and others, (2017) 16 SCC 680**.

7. The learned counsel for the original claimants submitted that the interest has been awarded only from the date of the Award and not from the date of the claim petition, which is also an error.

8. The learned counsel for the appellant in Misc. Appeal No. 594 of 2016, apart from raising the above-referred contention indicated at the outset, submitted that no liability should be fastened upon the appellant

or, in any event, the liability should not exceed 10% of the compensation amount.

9. Mrs Swati Shalini, the learned counsel for the Insurance Company in both the appeals, submitted that this was a case where the deceased was driving an uninsured motorcycle without a license. Further, this was a case of a head-on collision; therefore, there was nothing wrong in fastening liability to the extent of 50% on the owner of the motorcycle, i.e. the appellant in Misc. Appeal No. 594 of 2016.

10. Mrs. Swati Shalini submitted that there was no evidence about the income of the deceased. Still, the Tribunal presumed the income to be Rs. 6,000/- per month in 2013, which was quite reasonable given the absence of evidence of any actual income. She submitted that the Tribunal has incorrectly applied the multiplier of 17, when the deceased was 35 years old at the time of the accident, and the multiplier, therefore, could have been only 16, not 17. She submitted that the interest @ 9% per annum was quite excessive and perhaps, therefore, the same was made payable from the date of the Award.

11. For all the above reasons, Mrs Swati Shalini submitted that both the Appeals may be dismissed.

12. The rival contentions now fall for determination.

13. The first issue to be determined is whether the findings regarding composite negligence and the apportionment of liability based thereon warrant interference.

14. The evidence on record establishes that the deceased was driving the motorcycle owned by the appellant in Misc. Appeal

No. 594 of 2016. There is no dispute that his motorcycle was not insured with any insurance company. There is no evidence on the deceased possessing any license, though the learned counsel for the appellants in Misc. Appeal No. 557 of 2016 submitted that the license was untraceable, and the burden lay on the respondents to the claim petition to show that the deceased had no license. Thirdly, the evidence in the records suggests that this was a head-on collision between the motorcycle and the insured truck.

15. The argument about the license urged on behalf of the appellant in Misc. Appeal No. 594 of 2016 cannot be accepted. Some evidence had to be produced either by the claimants or the owner of the motorcycle to show that the deceased driver indeed possessed a license at the time of the accident.

16. Considering the above circumstances, the finding of composite negligence warrants no interference. However, the apportionment of liability on an equal basis was not justified. Admittedly, this is a case of a collision between a motorcycle, which is a much lighter and smaller vehicle, and the insured truck, which is much bigger and heavier. In such circumstances, the liability of the owner of the truck and, consequently, the insurance company which had insured the truck would be much greater.

17. In the facts and circumstances of the present case, the liability will have to be apportioned in the percentage of 70% upon the owner of the truck/its insurer and only 30% on the owner of the motorcycle, i.e. the appellant in Misc. Appeal No. 594 of 2016. Besides, there is no

challenge to the order of pay and recover made by the Tribunal *qua* the owner of the truck and its insurer.

18. Therefore, Misc. Appeal No. 594 of 2016 is only partly allowed, reducing the appellant's liability from 50% to 30% and correspondingly increasing the truck owner's/its insurer's liability from 50% to 70%.

19. The next point for determination concerns the deceased's quantum of income at the time of the accident.

20. There is evidence that the deceased was a mason. However, there is no evidence about his income. The claimants did depose that he was earning Rs. 9,000/- per month, but there was no evidence to this effect. The Tribunal accepted that the deceased must have been earning Rs. 200/- per day and, on that basis, determined the monthly income at Rs. 6,000/- per month. The learned counsel for the Insurance Company points out that even the minimum wage notification at the time of the accident suggested that a mason's income would be Rs. 174 per day.

21. Considering the above material, there is no case made out to interfere with the finding that the deceased was earning Rs. 6,000/- per month at the time of the accident. This means that the deceased was earning Rs. 72,000/- per annum. To this, a 40% increase is due towards future prospects, and that comes to Rs. 28,800/-. This takes the yearly income to Rs. 1,08,000/-.

22. From the above amount of Rs. 1,08,000/-, a deduction of 25% is due, as this is the amount the deceased would have spent on himself. This comes to Rs. 25,200/-. Thus, after this deduction, the deceased's annual income would come to Rs. 75,600/-.

23. Though the Tribunal has taken the multiplier as 17, the same, in terms of the decision in the case of **Sarla Verma (Supra) and National Insurance Company Limited (supra)** would be 16. Therefore, the compensation towards dependency would come to Rs. 75,600/- x 16 = 12,09,600/-.

24. To the above amount, Rs. 40,000/- will have to be paid to each of the claimants towards loss of consortium, consolidating this amount to Rs. 1,60,000/-. Further, an amount of Rs.15,000/- will have to be paid towards funeral expenses and another Rs.15,000/- towards loss of estate.

25. Thus, the total compensation would come to Rs. 13,99,600/-, which can, rounded up to Rs. 14 lakhs

26. The Tribunal has awarded interest @ 9% per annum but only from the date of the Award. In this matter, interest had to be awarded from the date of the claim petition and not the date of the Award. To that extent, also, interference is warranted.

27. Accordingly, Misc. Appeal No. 557 of 2016 is also partly allowed, and the compensation amount is enhanced from Rs. 9,33,000/- to Rs. 14,00,000/-, with interest @ 9% per annum to be computed from the date of the claim petition till actual payment.

28. Accordingly, both these appeals are partly allowed and disposed of by making the following order: -

(a) The compensation amount is enhanced from Rs.9,33,000/- to Rs. 14,00,000/-;

(b) The above amount will carry interest @ 9% per annum from the date of the claim petition till actual payment.

- (c) The liability of the truck owner and insurer is enhanced to 70% instead of 50%.
- (d) The direction for pay and recovery is not interfered with.
- (e) The insurance company must now either pay the differential amount, together with interest, to the claimants within six weeks from today, or deposit the amount in this Court within six weeks from today.
- (f) Similarly, the owner of the motorcycle, i.e. the appellant in Misc. Appeal No. 594 of 2016 must also pay or deposit the amount he is now held liable within six weeks from today.
- (g) If the amount is deposited after giving due intimation to the learned counsel for the claimants, then the Registry will transfer this amount to the claimants' bank accounts in terms of the identity and bank details to be supplied by the learned counsel for the claimants.
- (h) Under no circumstances should the amount be paid or disbursed to the claimants otherwise than through the normal banking channels.

29. There shall be no orders for costs. Pending Interlocutory Applications, if any, do not survive and are disposed of.

30. Before parting with this matter, I must record the fair approach of Mrs Swati Shalini, the learned counsel who appeared for the Insurance

Company. While putting forth the submissions on behalf of the Insurance Company with all vehemence, not once did the counsel forget her duty as an officer of this Court. This deserves to be appreciated, and is hereby appreciated.

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

March 20, 2026

N.A.F.R.

APK/VK

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