
(2025) 03 JH CK 1360
In the Jharkhand High Court
Case No : M.A. No. 362 of 2014

Jhonga Guiya

APPELLANT

Vs

Md. Aslam Ansari

RESPONDENT

Date of Decision : 18-03-2025

Acts Referred:

Motor Vehicle Act, 1988 — Section 166
Indian Penal Code, 1860 — Section 279, 304A, 427

Citation : (2025) 03 JH CK 1360

Hon'ble Judges : Gautam Kumar Choudhary, J

Bench : Single Bench

Advocate : Rajesh Kr. Jha, Alok Lal, Abhay Kr. Mishra

Final Decision : Allowed

Judgement

Gautam Kumar Choudhary, J

Heard, learned counsel for the parties.

1. The claimants/ appellants are in appeal for enhancement of the compensation awarded under Section 166 of the M.V. Act vide judgment /Award dated 14.03.2014 passed by learned District Judge-III- cum-MACT, Jamshedpur, in Compensation Case No.85 of 2009, whereby and whereunder compensation of Rs.11,28,000/- along with interest @9% per annum has been awarded in favour of the claimants/ appellants.

2. As per the case of the claimants, on 13.06.2009, deceased (Raju Hoe) met with a motor vehicle accident involving a bus bearing Registration No.BR 16P 5188. At the time of accident, the deceased was driving his motorcycle and the accident occurred due to rash and negligent driving of the driver of the bus, as a result of which, he sustained fatal injuries regarding which Parsudih P.S. Case No.108 of 2009 was registered on the very same day of accident i.e. 13.06.2009 under Sections 279/ 304A/427 IPC,.

3. Learned Tribunal recorded a finding of fact regarding the accident and awarded compensation.

4. It is argued by the learned counsel for the claimants/ appellants that at the time of death, deceased was working as Miner Helper under Uranium Corporation of India Limited (UCIL) and drawing a monthly salary of Rs.10,169/- per month as per the Salary Slip (Ext.10). However, the learned Tribunal has computed the compensation on the basis of monthly income of the deceased as Rs.7,437/- only and not the gross salary to which he was drawing.

5. He has further submitted that Future Prospect was also not granted while awarding compensation.

6. Learned counsel on behalf of Insurance Company defended the judgment and award of compensation. It is submitted that the learned Tribunal has rightly not considered the income of Rs.14,000/- which was claimed on the basis of oral submission. As per the pay slip (Exhibit 10), gross salary was Rs.7437/- and the deceased was getting pay of Rs.3310/- therefore, the learned Tribunal took monthly income of Rs.7437/-.

7. On perusal of pay slip (Exhibit 9), it is evident that in the last pay drawn, basic pay was Rs.11001/- and D.A.1859/- and, therefore, there is merit in the plea raised on behalf of the claimants that learned Tribunal erred in not taking gross salary of the deceased at the time of accident which will be Rs.11001/- + D.A.1859/- as the monthly income. Taking the monthly income of Rs.11001/- and D.A.1859/- (total as Rs.12,860/-), 26 years of age of the deceased at the time of accident, and 1/4th as personal and living expenses of the deceased, 50% future prospect, the final compensation amount will work as under:-

Annual income of the deceased taking Rs.12,860/- as monthly income + 50% as Future prospect

Rs.1,54,320/- and after tax deduction, it will come as Rs.1,38,888/-

X 50% as Future prospect] i.e.

Rs.69,444/-

= Rs.2,08,332/-

Annual Dependency after deducting as 1/4th

Rs.52,083/-

Rs.2,08,332/-Minus Rs.52,083/-

=Rs.1,56,249/-

Multiplier taking 17 years as the age of the deceased to be 26 years at the time of the

accident

17

Rs.1,56,249/-X 17

=Rs.26,56,233/-

Loss of Estate, Funeral Expenses and Loss of Consortium

Rs.84,000/-

Rs.84,000/-

Total

Rs.27,40,233/-

8. The Respondent No.3- Insurance Company is liable to pay the aforesaid compensation amount along with interest at the rate of 6% per annum from the date of filing of the claim application till its realization. The payment shall be made within a month from the date of this order by the Insurance Company to the learned Tribunal and thereafter the Tribunal will disburse the same as per the terms fixed to the claimants within two weeks.

9. It goes without saying that the amount already paid shall be deducted in final compensation amount.

Misc. Appeal is accordingly allowed. Pending I.A(s), if any, stands disposed of.