

(2025) 02 JH CK 1286

In the Jharkhand High Court

Case No : Miscellaneous Appeal No. 378 Of 2015

Manager National Insurance Co. Ltd

APPELLANT

Vs

Charki Devi wife of Late Pairu Singh

RESPONDENT

Date of Decision : 05-02-2025

Acts Referred:

Motor Vehicles Act, 1988 — Section 166

Citation : (2025) 02 JH CK 1286

Hon'ble Judges : Gautam Kumar Choudhary, J

Bench : Single Bench

Advocate : Alok Lal, Santosh Kumar

Final Decision : Disposed Of

Judgement

Gautam Kumar Choudhary, J

1. Insurance Company is in appeal against the quantum of compensation awarded in favour of the claimants.

2. As per the case of the claimants, deceased- Pairu Singh was travelling on a truck bearing registration no. BR 41G 5691 was engaged to bring goods/articles when the accident took place in which he sustained grievous injuries and died on way to the hospital. The deceased was earning Rs.3000/- per month and his age was fifty years at the time of accident and he left behind three legal heirs and dependents.

3. Learned Tribunal on evidence accepted Rs.4000/- as monthly income of the deceased and taking multiplier of 13, awarded compensation of Rs.4,06,000/-, after deducting 1/3rd as living expense under Section 166 of the MV Act. Apart from this, claimants were also awarded Rs.25,000/- under the head of funeral expenses, Rs.1,00,000/- as loss of consortium, Rs.5000/-towards loss of estate, Rs.1,00,000/- on account of loss of love and affection.

2. The main argument advanced on behalf appellant is that award of

compensation under conventional head, is not in accord with the ratio laid down by the Apex Court in the case of National Insurance Company Ltd. vs. Pranay Sethi, reported in (2017) 16 SCC 680.

3. The notices were earlier issued to the claimants, but no one appeared and consequently, vide order dated 15.01.2025, ex-parte hearing of the appeal was drawn.

4. I find merit in the submission advanced on behalf of the appellant that the award of compensation under the heads of loss of consortium, funeral expenses, loss of estate, are not as per the settled law. The Tribunal has failed to compute the compensation by taking into consideration the loss of income on account of future prospect.

5. Taking the age of the deceased to be fifty years and income Rs.4000/- per month as recorded by the Tribunal, final compensation amount will work out as under:-

Annual Income $\text{Rs.}4000 \times 12 = \text{Rs.}48,000/-$

Loss of income on account of future prospect 25% as the deceased was aged 50 years and not in permanent job, $\text{Rs.}12,000/-$ (25% of $\text{Rs.}48,000/-$).

$\text{Rs.}48,000 + \text{Rs.}12,000 = \text{Rs.}60,000/-$.

The deceased left behind three dependents so deduction of 1/3rd will be applicable on living expense to compute the annual dependency. Annual dependency $\text{Rs.}40,000/-$ (deduction of $\text{Rs.}20,000/-$ i.e. 1/3rd of $\text{Rs.}60,000$). Taking multiplier of 13, compensation will work out to $40,000/- \times 13 = \text{Rs.}5,20,000/-$.

Under conventional head $\text{Rs.}70,000/-$.

4. Insurance Company is liable to pay total compensation amount of $\text{Rs.}5,90,000/-$ with 6% interest from the date of filing of claim application.

Miscellaneous Appeal is accordingly, disposed of. Statutory amount deposited by the appellant at the time of filing of claim, be remitted to the Tribunal and full and final payment of compensation amount will be made within six weeks of the order. The Tribunal will disburse the compensation amount to the claimants after proper identification as per the terms fixed by it. Interlocutory Application, if any, is disposed of.