IN THE HIGH COURT OF JHARKHAND AT RANCHI

M. A. No. 328 of 2015

(with I.A. No. 3743 of 2015)

New India Assurance Co. Ltd., through The Divisional Manager, having its office at B.P. Agarwala Building, Dhansar, P.O. & P.S. Bank More, District - Dhanbad.

... O.P. No.2/Appellant

Versus

1. Pushpa Sinha, Wife of Late Alind Kumar Sinha,
2. Payal Priya, daughter of Late Alind Kumar Sinha,
   Both residents of Village Manjhi Basti, Bastacola, Atta Chakki, P.O. & P.S. Jharia, District – Dhanbad (Plaintiffs/Claimant Nos. 1 & 2 respectively)
3. R. Rajesh Kannan, son of M. Raja Rama, resident of A/77, P.O. & P.S. Vettambadi, District – Namakhal Tamilnadu, PIN 637001 (Owner/Opposite Party No.1).

... Respondents

CORAM: HON'BLE THE CHIEF JUSTICE

For the Appellant: Mr Alok Lal, Advocate
Mr Santosh Kumar, Advocate
For the Respondents: Mr Rajiv Kumar Karan, Advocate
Mr M.B. Lal, Advocate

15/Dated: 24.08.2026

1. Heard the learned counsel for the parties.

2. This appeal challenges the judgment and award dated 27th March 2015 made by the Motor Accident Claims Tribunal, Dhanbad. Since this appeal was filed 03 days beyond the prescribed period of limitation, I.A. No. 3743 of 2015 seeks condonation of delay in filing the appeal.

3. This appeal was filed on 09.07.2015, and the stay on execution proceedings was secured on 26.10.2016, subject to deposit of the awarded compensation amount after deducting Rs. 25,000/-

(statutory deposit amount). An order was also made for disbursing 50% of the compensation amount to the claimants on their furnishing an undertaking on the terms and conditions which the Executing Court might deem fit and proper to impose. By this order of 26.10.2016, notices were issued to all the respondents, including the claimants.

4. The record shows that considerable time was spent on effecting service on the respondents. On 12.02.2018, an adjournment was sought to take fresh steps. On 29.11.2021, directions were issued to the appellant to take fresh steps. Similar directions were issued on 23.03.2022, 25.07.2022, 17.08.2022, 04.01.2023 and 29.04.2025. On 14th July 2025, i.e. almost 10 years after filing of the appeal, a request was made to serve the unserved respondents by substituted service. This was granted. However, there was no diligence in complying with the order, as is evident from the subsequent order of 02.09.2025.

5. Mr Alok Lal now says that notices were ultimately published in the newspaper and, accordingly, service is complete.

6. This Court strongly deprecates insurance companies filing appeals and then failing to take prompt steps to effect service on the respondents. Several cases are coming up before the Court where this *modus operandi* is followed. The executing courts are invariably informed that an appeal has been filed, and therefore they should stay their hands even though there is no formal stay order issued by the appellate court.

7. In this case itself, almost 10-12 years were spent only on completing the service on all the respondents to this appeal. All this while, the appellant-Insurance Company was armed with a stay on the execution proceedings, no doubt subject to depositing the awarded amount.

8. The insurance companies fail to realise that by not taking steps to promptly serve the respondents, the hearing in the appeal is delayed. This delay operates extremely harshly upon claimants who have lost a near and dear one and therefore are in dire need of some reasonable compensation.

9. For example, in this case, the claimants are the mother and the sister of the deceased, who was only 22 years old at the time of the motor accident that ended his life prematurely. They have been deprived of at least 50% of the compensation awarded to them by the Tribunal solely because of the appellant-Insurance Company's lack of diligence in serving all the respondents in this appeal.

10. Such a delay also affects the appellant-Insurance Company, as it will ultimately have to pay interest on the compensation amount. Normally, such interest is awarded from the date of the institution of the claim petition. The insurance officials are least interested in following up such a case, as they are confident that, even if the insurance company must pay a huge amount towards interest, this is never, or in any event very rarely, reflected in the confidential rolls of such officers. Such officers are never made to pay or

reimburse the losses caused to the insurance companies on account of their failure to take steps.

11. In such a situation, no one is willing to be accountable or accept responsibility. Insurance company officials blame the lawyers, and the lawyers, in turn, blame the insurance company officials. This blame game continues because neither party is affected. The claimants and honest taxpayers are the ones who are really affected by such an attitude on the part of the insurance companies and their officials. People have a vital stake in the functioning of public sector insurance companies, inter alia, because the premia payable to insure motor vehicles have a nexus with the payouts to victims of motor accidents. Even otherwise, public monies cannot be frittered away due to the negligence of the officials of such public sector insurance companies.

12. Even if costs are awarded, and directions are issued to recover such costs from the officials responsible, the insurance companies make a pretence of holding inquiries and finally conclude that none of the officials is responsible.

13. In this case, I am therefore constrained to direct the Regional Manager of New India Assurance Company Limited to conduct an enquiry to determine which officials were responsible for the inordinate delay in serving the respondents in this appeal. The Regional Manager must not simply refer to the *Rojnama* Records and conclude that the postal authorities were responsible for the delay. The Regional Manager should enquire who was responsible

for following up on this matter and whether any follow-up actually took place. After determining responsibility, the Regional Manager must consider making appropriate entries in the confidential rolls of such officials and, further, whether they should be directed to reimburse at least a portion of the interest component that might now have to be paid to the claimants.

14. Unfortunately, the normal experience is that even the Regional Managers or the Divisional Managers seldom conduct such enquiries sincerely. Their whole intention is only to protect officials at the cost of the insurance company which deals with public funds. Still, the directions are issued in the fond hope that at least something might change.

15. Now that all the respondents are served, the delay of 03 days is hereby condoned, and at the request of and with the consent of learned counsel for the parties, the appeal is taken up for final hearing.

16. Mr Alok Lal, the learned counsel for the appellant, urged only one ground in support of this appeal. He submitted that in the written statement filed on behalf of the appellant-Insurance Company, a categorical stance was taken that the driver of the insured vehicle, i.e., lorry bearing Registration No. TN-28J-7507, had no driving licence. He submitted that even an issue was framed by the Tribunal, but the same was not answered or, in any event, was answered erroneously.

17. Accordingly, Mr Alok Lal submitted that this was a fit case where no liability should be foisted upon the appellant-Insurance Company or, in any event, a "pay and recovery" order be made enabling the appellant-Insurance Company to recover the compensation amount from the owner of the insured vehicle.

18. Mr Rajiv Kumar Karan, learned counsel for the claimants, defended the impugned order on the reasoning therein but submitted that there were serious errors in determining the compensation amount. He submitted that it is the duty of the Court to award a 'just compensation' irrespective of whether any cross-objection or cross-appeal is filed. Accordingly, he submitted that, by applying the correct principles and making additions for future prospects, consortium, funeral expenses, loss of estate, etc., the compensation amount should be suitably enhanced.

19. The rival contentions now fall for my determination.

20. In the written statement filed by the appellant-Insurance Company, all sorts of defences have been raised. From perusal of the written statement, it appears that the Insurance Company was not even willing to produce its own policy document so as to shift the entire burden on the mother and unmarried sister of the deceased.

21. In paragraph 10 of the written statement it is pleaded that under Section 149 of the M.V. Act, the insurer of the vehicle is not liable to satisfy the award/judgment on behalf of the insured if there has been any breach of specified condition of the policy and in the policy condition it has been specifically mentioned that the driver

of the vehicle must hold an effective driving licence at the time of the accident. In paragraph 11, it is submitted that the driver of the insured vehicle had no valid and effective driving licence at the time of the accident and the burden was on the owner of the insured vehicle and the claimants to prove that the driver was holding a valid and effective driving licence. The verification by Sri Arun Kumar Mishra, the Divisional Manager, is also entirely defective.

22. In any event, the record shows that the appellant-Insurance Company produced neither oral nor documentary evidence in support of its contention that the driver of the insured vehicle had no driving licence. In paragraph 9, the Tribunal has reasoned that due to the non-production of any reliable evidence in respect of the driving licence, it can be safely held that the driver had a valid and effective driving licence at the time of the accident.

23. In effect, the Tribunal has held that the onus was on the appellant-Insurance Company to establish that there was any breach of the fundamental terms and conditions of the insurance policy, and it was not for the claimants or the driver/owner of the insured vehicle to assist the Insurance Company in wriggling out from its liability. Therefore, the contention that the appellant's defence was not even considered is untenable.

24. In the case of **Branch Manager, National Insurance Company Limited v. Asha Devi and Others** (M.A. No. 302 of 2016 dispsoed of on 14.08.2026) and the **Divisional Manager, New**

India Assurance Co. Ltd. v. Yashoda Devi & Ors (M.A. No. 249 of 2017 order dated 07.08.2026), arguments similar to those advanced on behalf of the appellant today were considered and rejected.

25. In those cases, learned counsel for the Insurance Companies relied on **Amrit Paul Singh v. Tata AIG General Insurance Co. Ltd.**, (2018) 7 SCC 558. This Court, relying upon **National Insurance Company Limited versus Swarn Singh**, (2004) 3 SCC 297, and **Narcinva V. Kamat and Another Versus Alfredo Antonio Doe Martins and Others**, 1985 ACJ 397 (SC), held that the onus of establishing fundamental breach of the terms of the insurance policy would lie upon the Insurance Company which raises such a plea.

26. In fact, in the latter case of **Narcinva V. Kamal (supra),** the Hon'ble Supreme Court held that the insured is not under an obligation to furnish evidence to enable the Insurance Company to wriggle out of its liability. The decision in the case of **Amrit Paul Singh (supra)** was also distinguished, because in that case, from the materials brought on record, it was established that the insured vehicle did not have any permit when the accident occurred.

27. Therefore, by following the reasoning in the above two decisions of this Court and the decisions of the Hon'ble Supreme Court referred to herein, the only ground urged by the appellant-Insurance Company in support of this appeal will have to be rejected and is hereby rejected.

28. In this case, however, this appeal cannot be simply dismissed without addressing the issue of 'just compensation'. It is well settled that it is a duty of the Court to determine 'just compensation' irrespective of whether the same is claimed or not.

29. In **Surekha v. Santosh**, (2021) 16 SCC 467, and **Rani and Others v. National Insurance Company Ltd,** (2018) 8 SCC 492, the Hon'ble Supreme Court has held that the compensation amount can be enhanced even in the absence of any cross-objections being filed on behalf of the claimant because ultimately, it is a duty of the Court to determine 'just compensation'.

30. In this case, the Tribunal has held that the deceased was earning Rs. 10,000/- per month or Rs. 1,20,000/- annually. However, no addition was made towards future prospects. Since the deceased was aged about 22 years at the time of his unfortunate demise in the accident, at least a 40% addition was due. This is more so because the evidence on record shows that the deceased had a very good academic record while studying his engineering course in Electronics and Communication Engineering. The annual income of the deceased will therefore have to be taken at Rs. 1,68,000/-.

31. In terms of the Hon'ble Supreme Court in the case of **Sarla Verma v. DTC**, (2009) 6 SCC 121, and **National Insurance Co. Ltd. v. Pranay Sethi**, (2017) 16 SCC 680 and, **Magma General Insurance Co. Ltd. v. Nanu Ram**, reported in (2018) 18 SCC 130, an amount of 50% will have to be deducted since the deceased was a bachelor. Therefore, the deceased's annual income

for determining dependency will have to be taken at Rs. 84,000/-. The multiplier in this case would be 18 and therefore, the compensation towards dependency would come to Rs. 15,12,000/-.

32. In addition to the above amount, compensation of Rs. 40,000/- will have to be awarded to each of the claimants towards consortium, an amount of Rs. 15,000/- towards funeral expenses, and another Rs. 15,000/- towards loss of estate. The total compensation will have to be determined at Rs. 16,22,000/- and not merely Rs. 10,30,000/- as determined by the Tribunal.

33. The direction for payment of interest at the rate of 6% p.a. from the date of filing of the claim application till realisation of the compensation amount is maintained.

34. The appeal is accordingly dismissed, but after determining the just compensation now payable to the claimants at Rs. 16,22,000/- along with interest @ 6% p.a. from the date of claim petition till the date of actual payment.

35. The claimants will now be entitled to withdraw the balance compensation amount lying deposited with the Executing Court along with interest, if any, that shall have accrued on the said amount. The Executing Court must expeditiously process the transfer of this amount into the bank accounts of the claimants.

36. The appellant-Insurance Company is directed to deposit the enhanced compensation amount along with interest in this Court within six weeks from today after due intimation to the learned counsel for the claimants. In depositing this amount, the appellant-

Insurance Company shall be entitled to adjust the amount already deposited and withdrawn by the claimants.

37. However, no adjustment shall be permissible against the statutory deposit amount of Rs. 25,000/- because that amount must be paid to the claimants in this case by way of costs.

38. The Registry to transfer the amounts deposited by the appellant herein to the claimants upon their furnishing identity and bank details. Under no circumstances should any transfer of amount be made other than through regular banking channels.

39. The appeal is dismissed with costs, but after enhancing the compensation amount, as indicated above.

40. The Registry shall ensure that a copy of this judgment is sent to the Regional Manager of New India Assurance Company Limited, whose office is at the Bihar State Financial Development Corporation Office, 6th & 7th Floor, Frazer Road, Patna-800001.

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

August 24, 2026

N.A.F.R.

Manoj/Sharda/Cp.2

Uploaded on 25.08.2026