

**IN THE HIGH COURT OF JHARKHAND AT RANCHI
M.A. No. 288 of 2024**

Cholamandalam MS General Insurance Co. Ltd.,
Tiwari Enclave Circular Road, P.O. & P.S. Lalpur,
Dist. Ranchi -834001 represented through its
Deputy Manager - Vishal Kumar Sharma s/o Mr. B.
Sharma, aged about 34 years, resident of C/o M/s
Cholamandalam MS General Insurance Co. Ltd.,
Shri Krishna Mathura Complex, IIIrd Floor, Opp.
Allahabad Bank, Circular Road, P.O. & P.S. Lalpur,
Dist. Ranchi.

..... ... Appellant

Versus

1. Panchi Oraon W/o of Late Sandeep Oraon
- 2) Piyush Kujur S/o Late Sandeep Oraon
- 3) Komal Kujur D/o of Late Sandeep Oraon
- 4) Jatri Oraon W/o of Sarunath Oraon
- 5) Sarunath Oraon S/o of Late Tenwa Oraon

Nos. 2 to 3 are minors hence they are
represented through their mother and natural
guardian respondent No. 1 Panchi Oraon.

All resident of Village- Paratari Chapranga,
P.O. Chama, P.S. Chanho, District- Ranchi-835214.

6. Santosh Uraon S/o of Ramdev Uraon village
Sawansar, Seregara, Chetar, P.O., P.S. & Dist.
Latehar-829202.

..... ... Respondents

CORAM : HON'BLE MR. JUSTICE SANJAY KUMAR DWIVEDI

For the Appellant : Mr. Ashutosh Anand, Advocate.
For the Resp. Nos. 1 to 5 : Mr. Nikhil Ranjan, Advocate.

08/ 06.01.2025 Heard learned counsel appearing for the appellant-insurance
company and learned counsel appearing for the respondent Nos. 1 to 5-
claimants.

2. Respondent No. 6 is the owner of the vehicle, however, in
spite of repeated calls, nobody has responded on his behalf.

3. This appeal is preferred by the appellant-insurance
company being aggrieved and dissatisfied with the award dated
10.06.2024, passed by the learned Motor Vehicles Accident Claims
Tribunal, Ranchi, in Motor Accident Claim Case No. 341 of 2022.

4. The claim case was instituted under Section 166 of the
Motor Vehicles Act for compensation amount of Rs. 21,00,000/- on

account of death of one Sandeep Oraon. The said claim case was arising out of a road accident dated 27.05.2022. It was contended on behalf of the informant that on 27.05.2022, Sandeep Oraon after casting his vote at Chamranga Booth was returning home on his Motorcycle and at about 3.30 P. M. when he reached near Amabatard Khalari Road within the jurisdiction of P.S Chanho, Ranchi his motorcycle was dashed by a speeding Truck and the said truck was being driven by the driver of the offending vehicle and as a result of the said accident victim-Sandeep Oraon sustained grievous injuries upon his person. With the help of people of locality took the victim to Chanho Hospital for treatment, due to critical condition the doctor referred him to RIMS, Ranchi for better treatment. However, the attending doctors at RIMS, Ranchi declared him dead. Postmortem was conducted at RIMS, Ranchi and report prepared vide report dated 28.05.22. The informant of the case had recorded his fardbeyan before the police on 28.05.2022 about the accident to Bariatu Police at RIMS, Ranchi, for that Chanho P. S. case No. 107 of 2022 dated 04.07.2022 for the offence under Sections 279 and 304A of Indian Penal Code against unknown driver of the offending vehicle was registered. The investigation was done and chargesheet was submitted against Ajit Minz, the driver of the offending vehicle and the offending vehicle bearing registration number JH-01-AY-8812. It is alleged that the deceased had died leaving behind his wife, minor son, daughter and parents, total five in numbers.

5. Mr. Ashutosh Anand, learned counsel appearing for the appellant-insurance company submits that learned Tribunal has not given any finding with regard to valid license of the deceased as well as fitness of the insured vehicle and the vehicle in question was also implanted and to buttress his arguments, he submits that in the FIR, it has come that the vehicle was seized, however, in the FIR, the number of said vehicle was not disclosed. In view of that he submits that the learned Tribunal has wrongly passed the award and these questions were not answered by the learned Tribunal. He submits that the contributory negligence on part of the deceased driver is there, in spite

of that the learned Tribunal has been pleased to award the compensation. He further submits that the FIR was registered after 38 days from the date of occurrence.

6. Mr. Nikhil Ranjan, learned counsel appearing for the claimants submits that the learned Tribunal has framed six issues and he had dealt with all the issues and in view of that the award is in accordance with law.

7. So far the contention of Mr. Ashutosh Anand, learned counsel appearing for the appellant-insurance company is concerned with regard to issue No. 4 was casted by the learned Tribunal to the effect, as to whether insured/owner of the alleged offending truck bearing registration number JH-01-AY-8812 has violated any of the terms and conditions of the insurance policy or not. This issue was dealt with by the learned Tribunal along with issue Nos. 1,2 and 3 in para-10 of the award. Learned Tribunal has considered the oral evidence of A.W.-Panchi Oraon, other oral evidence as well as documentary evidence, the contents of the FIR, chargesheet, post-mortem report and found that accident took place on 27.05.2022, near Ambatard-Khalari Road within the jurisdiction of P.S. Chanho, Ranchi. The deceased sustained fatal injury and post-mortem report was marked as Exhibit-3. Owner of the truck in question has appeared before the learned Tribunal and he has admitted about the vehicle, which was driven by the driver Ajit Minz and the said vehicle was insured and the driver was having the valid driving license, which was exhibited as Exhibit-5. Photo copy of the registration certificate of the offending vehicle in the name of Santosh Oraon was marked Exhibit-4. Exhibit-6 was the insurance policy issued by Cholamandalam MS General Insurance Co. Ltd. with valid Policy Number 3379/03100090/000/00 for its liability only effective from 29.01.2022 to 28.01.2023. The road permit was exhibited as Exhibit-8. In light of these documents as well as the oral evidence, the learned Tribunal has come to the conclusion that none of the terms and conditions of the policy was missed and it was decided against the insurance company. This court finds that the valid reason of

deciding the said issue is disclosed in the judgment of the learned Tribunal, in view of that this court is not accepting the argument of learned counsel appearing for the appellant.

8. In course of the arguments, it was further pointed out that father of the deceased was not the dependant, in spite of that his presence was counted in determining the personal deduction. In para-17 of the judgment, it transpires that 1/4th equal share was considered for personal deduction and living expenses, in view of that even if the father is not dependant, 1/4th share has rightly been calculated in view of the judgment of Hon'ble Supreme Court in the case of *Sarla Verma & Ors. Versus Delhi Transport Corporation & Anr.*, reported in (2009) 6 SCC 121 and further in view of the judgment of Hon'ble Supreme Court in the case of *National Insurance Company Limited Versus Pranay Sethi & Ors.*, reported in (2017) 16 SCC 680.

9. So far as the contributory negligence is concerned, no evidence was led and further the onus lies upon the insurance company to prove the same, as has been held by the Hon'ble Supreme Court in the case of *Mohammed Siddique & Anr. Versus National Insurance Company Ltd. & Ors.*, reported in (2020) 3 SCC 57.

10. So far as the registration of the FIR is concerned, the application was already made on 28.05.2022, i.e. just one day after the accident, in view of that the contention of the learned counsel appearing for the appellant-insurance company with regard to registration of the FIR is not tenable, as the chargesheet has been submitted, which has been exhibited and the accident took place and the post-mortem report was on the record.

11. In view of the above, no case of interference is made out, as such, this appeal is dismissed.

12. I.A. No. 13626 of 2024 has been filed on behalf of the claimants for releasing of the deposited amount by the insurance company before the learned Tribunal.

13. Since this appeal is already decided, as such, this I.A. is disposed of with the liberty to the claimants to move before the learned

Tribunal for receiving of the awarded amount.

14. The statutory amount deposited by the insurance company shall be transmitted back to the learned Tribunal and that amount will be utilized in satisfying the award in favour of the claimants and if the entire amount has already been deposited by the said insurance company, the statutory amount will be refunded back by the learned Tribunal to the insurance company.

(Sanjay Kumar Dwivedi, J.)

Amitesh/-

[A.F.R.]