

**IN THE HIGH COURT OF JHARKHAND AT RANCHI**  
**(Civil Miscellaneous Appellate Jurisdiction)**  
**M. A. No. 417 of 2018**

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1. Branch Manager, United India Insurance Co. Ltd. having its Branch Office situated at Katras Road, P.O. & P.S.- Katras, Dhanbad.
2. Branch Manager, United India Insurance Co. Ltd. Branch Office situated at Das Complex, Court Road, P.O., P.S. & Dist.- Deoghar  
..... Appellants

**Versus**

1. Most. Maimun Nissa @ Naimun Nissa, W/o Late Md. Yashin
2. Nagina, D/o Late Md. Yashin
3. Sabina, D/o Late Md. Yashin
4. Sahjahan, S/o Late Md. Yashin
5. Sohgra Bibi, W/o Mohammad Ashique
6. Mohammad Ashique, S/o Late Sheikh Azmat Ali
7. Pallab Bhattacharya, S/o Late Prabodh Bhattacharya  
..... Respondents

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**CORAM: HON'BLE MR. JUSTICE KAILASH PRASAD DEO**  
**(Through : Video Conferencing)**

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For the Appellant : Mr. Ashutosh Anand, Advocate  
For the Respondents :

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**04/24.06.2020**

The Insurance Company has been preferred this appeal against the award dated 18.12.2017 passed by learned District Judge-I-cum- Motor Accident Claim Tribunal, Deoghar in Motor Accident Claim Case No.31 of 2008 under Section 166 of the Motor Vehicle Act.

Learned counsel for the appellants has submitted that the learned Tribunal has decided the Issue No. 4 i.e. whether there was violation of terms and conditions of the policy by the owner of the vehicle and held that vehicle was being used for commercial purpose but the vehicle was insured by the appellant for private purpose, as such, learned Tribunal ought to have given right to recovery in favour of the Insurance Company to recover the same from the owner of the vehicle after indemnifying the award.

Learned counsel for the appellants has submitted that future prospect of the deceased has been wrongly enhanced by the learned Tribunal as 30% contrary to the judgment passed by the Hon'ble Apex Court in the case of *National Insurance Company Ltd. Vs. Pranay Sethi and Ors.* reported in (2017) 16 SCC 680, which ought to have been 25% for the age group of the deceased between 40-50 years and in the present case the deceased was admittedly of the age of 40 years.

Learned counsel for the appellants has submitted that deduction has been made by the learned Tribunal considering the judgment of *Santosh Devi Vs. National Insurance Co. Ltd. & Others* reported in *2012 (6) SCC 421* as 1/6<sup>th</sup> for a family comprises of 7 persons including the deceased.

Learned counsel for the appellants has submitted that in view of the judgment passed by Hon'ble Apex Court in the case of *Sarla Verma (Smt.) & Ors. Vs. DTC & Anr.* reported in *(2009) 6 SCC 121*, it ought to be considered as 1/4<sup>th</sup>.

Learned counsel for the appellants has thus submitted that so far deduction towards personal and living expenses is concerned, the judgment of *Sarla Verma (supra)* has been considered by *Pranay Sethi (Supra)* and this judgment is still relevant on this point as on today.

Under the aforesaid circumstances, let notices be issued to the respondents namely, (i) Most. Maimun Nissa @ Naimun Nissa, W/o Late Md. Yashin, (ii) Nagina, D/o Late Md. Yashin, (iii) Sabina, D/o Late Md. Yashin, (iv) Sahjahan, S/o Late Md. Yashin, (v) Sohgra Bibi, W/o Mohammad Ashique, (vi) Mohammad Ashique, S/o Late Sheikh Azmat Ali, all residents of Mohalla Hirna, P.O. - B-Deoghar, P.S. & District – Deoghar and (vii) Pallab Bhattacharya, S/o Late Prabodh Bhattacharya, resident of Sarkar Bhawan, Mohalla Wiliams Town, P.O. - B-Deoghar, P.S. & District – Deoghar, under both process i.e. under registered cover with A/D as well as under ordinary process, for which requisites etc. must be filed within two weeks in both memo of appeal as well as in the limitation matter.

Put up this case after receipt of the service report of notices.

**(Kailash Prasad Deo, J.)**