

**IN THE HIGH COURT OF JHARKHAND AT RANCHI  
(Civil Miscellaneous Appellate Jurisdiction)**

**M.A. No. 301 of 2018  
With  
M.A. No.168 of 2019**

-----  
**CORAM: HON'BLE MR. JUSTICE KAILASH PRASAD DEO**  
-----

For the Appellant : Mr. Alok Lal, Advocate [in MA 301 of 2018]  
Mr. Nikhil Ranjan, Advocate [in MA 168 of 2019]  
For the Respondent :

.....

**06/Dated: 13/04/2021**

Heard, learned counsel for the parties.

Learned counsel for the appellant, Mr. Alok Lal in [M.A. No.301 of 2018] has submitted that this Misc. Appeal has been preferred by New India Assurance Company Ltd. with delay of 8 days and for condonation of the same, I.A. No. 4676 of 2018 has been preferred.

Learned counsel for the appellant, Mr. Alok Lal has further submitted that the Insurance Company has prayed for stay of the proceeding of Execution Case No.36 of 2019 for which I.A. No.7160 of 2019 has been preferred before this Hon'ble Court.

Learned counsel for the appellant has further submitted claimant has already appeared through her learned counsel, Mr. Nikhil Ranjan and also preferred the appeal Vide M.A. No.168 of 2019 for enhancement of the award, with delay of 330 days and for condonation of the same, I.A. No.1424 of 2020 has been preferred, on the ground that future prospect of the deceased has not been granted in view of the judgment passed by the Apex Court in the case of *National Insurance Company Ltd. vs. Pranay Sethi & Ors.* reported in (2017) 16 SCC 680 as the deceased (Kapil Oraon) was aged about 4 years and the learned Tribunal has awarded only Rs.3 lacs with interest @ 12% per annum from the date of award till its realization.

Learned counsel for the appellant [M.A. No.168 of 2019] has submitted that in the case of *Chetan Malhotra Vs. Lala Ram, reported in 2016 SCC Online Del 2981*, the Apex Court has considered the compensation on the higher side, as such, notice may be issued upon owner of the offending vehicle, as the Insurance Company has already appeared in the analogous matter and he will serve copy of memo of appeal, impugned award and other relevant documents including the intrerlocutorpy application upon the Insurance Compnay though the right of recovery has been given in favour of the Insurance Company to recover the same from owner of the vehicle.

Under the aforesaid circumstances, let notice be issued to Sima Devi, W/o Sri Ajit Kumar, R/o Haraiya Kamta, Chandwa, P.O. & P.S. Chandwa, District- Latehar (owner of truck bearing Registration No.JH02A-4131) in the both aforesaid Misc. appeals along with limitation matter and stay matter under both process i.e. under Registered Cover with A/D as well as under ordinary cover, for which requisites etc., must be filed within a period of three weeks.

In the meantime, parties are directed to exchange their pleadings.

So far the stay in Execution Case No.36 of 2019 is concerned, the Insurance Company is directed to deposit awarded amount of Rs.2,50,000/- along with interest @ 7.5% per annum from the date of filing of the claim application till the date of depositing the amount before the learned Tribunal in Execution Case No.36 of 2019 within a period of 90 days from today which shall be indemnified to the claimant after taking an affidavit that she has already appeared in these cases.

I.A. No.7160 of 2019 filed for stay of Execution Case No.36 of 2019 stands disposed of.

Put up these cases after service of notice.

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

**Sandeep/**