

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.77 of 2025
In
Civil Writ Jurisdiction Case No.316 of 2024

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1. The State of Bihar through the Additional Chief Secretary, Department of Transport, Government of Bihar, Patna.
 2. The Secretary, Department of Transport, Government of Bihar, Patna.
 3. The State Transport Commissioner, Government of Bihar, Patna.
 4. The District Magistrate, West Champaran, Bettiah.
 5. The District Transport Officer, West Champaran, Bettiah.
 6. The Sub-Divisional Officer, West Champaran, Bettiah.
 7. The Station House Officer, Jagdishpur, District- West Champaran, Bettiah.

... .. Appellants

Versus

Suresh Sah Son of Late Badelal Sah, Resident of Village- Baniyapatti, Ward No.8, Jagdishpur, P.O. Jagdishpur, Police Station- Nautan (Jagdishpur), District- West Champaran.

... .. Respondent

Appearance :

For the Appellants	:	Mrs. Shweta Anand, AC to GP-13
For the Respondent	:	Mr. Manoj Kumar, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 28-04-2026

This Letters Patent Appeal has been filed by the State of Bihar challenging the order dated 25.07.2024 passed by the learned Single Judge in C.W.J.C. No. 316 of 2024 directing the District Magistrate, West Champaran at Bettiah to pay a sum of



Rs. 4,75,000/- (Rupees Four Lakh Seventy-Five Thousand Only) to the writ petitioner within a period of eight weeks from the date of the order, failing which the District Magistrate shall not draw his salary.

2. The aforesaid writ petition was filed by the writ petitioner Suresh Sah seeking for the following relief(s):

- “i) For issuance of writ in the nature of certiorari for quashing the Letter No. 444 dated 05.04.2023 by which the claim of the petitioner for compensation under Bihar Motor Accident Claim Tribunal Act has been kept in abeyance.*
- ii) For issuance of writ directing the respondents to grant the compensation/interim compensation/ex-gratia in accordance with law to the petitioner.*
- iii) For any other relief/reliefs for which the petitioner is entitled for in the eye of law.”*

3. It is the case of the writ petitioner that on 21.03.2022 at about 10:15 p.m., his son Manjit Kumar died in a road accident due to rash driving of an unknown truck near Hero Honda Agency, Jagdishpur and in connection with such accident, Nautan (Jagdishpur) P.S. Case No. 158 of 2022 was registered on 22.03.2022 under sections 279 and 304A of the Indian Penal Code against an unknown truck driver.

During the course of investigation, the dead body of the son of the writ petitioner was sent for *post mortem*



examination and Death Certificate was also issued. The S.H.O., Jagdishpur, Bettiah, District - West Champaran asked the writ petitioner to submit the required documents which were handed over to the S.H.O. to do the needful with regard to the compensation.

Thereafter, Form Nos. C-1 and C-4 were handed over to the writ petitioner by the officials of the District Transport Officer, West Champaran, Bettiah and the writ petitioner was supposed to submit such Forms before the Sub-Divisional Officer, West Champaran, Bettiah for claim of compensation. Accordingly, the claim applications in the prescribed form were submitted on 06.01.2023 before the concerned authority. The writ petitioner approached the authorities on various occasions for release of the compensation amount, but having found no succour, he filed his application before the Public Grievance Cell on 16.03.2023. Thereafter, the District Transport Officer, West Champaran, Bettiah by Letter No. 444 dated 05.04.2023 informed the District Public Grievance Redressal Officer, West Champaran, Bettiah, that due to the stay of operation of Notification Nos. 683 and 684 by this Court in the writ petitions, the compensation could not be granted.

4. It is the further case of the petitioner that in view of



the nature of orders passed by this Court on 29.06.2022 and 21.12.2022 in C.W.J.C. No. 2183 of 2022 and other analogous cases, there was no embargo in granting interim compensation/*ex-gratia* amount before the determination of the final amount of compensation.

5. After issuance of notice, Respondent Nos. 4 and 5 filed the counter affidavit, which was duly sworn by the District Transport Officer, West Champaran, Bettiah, wherein, the following stand was taken:

- “7. That in compliance the District Transport Officer, West Champaran, Bettiah vide his Letter No.444 dated 05.04.2023 has submitted his report mentioning therein that the Hon'ble High Court vide order dated 21.12.2022 passed in CWJC No.3362/2022 and other analogous cases has stayed the operation of gazette notification nos.683 and 684 dated 11.08.2021 and public notice dated 01.12.2021, which has been communicated by the Transport Department vide his letter no.9876 dated 27.12.2022 (Annexure-P/7 of the writ application).*
- 8. That considering the aforesaid report the DPGRO has disposed of application of the writ petitioner vide order dated 06.04.2023, whereby and whereunder the DPGRO has suggested the writ petitioner to wait for the order of the Hon'ble High Court.*
- 9. That it is pertinent to mention here that vide notification no.684 dated 11.08.2021 the*



Transport Department, Bihar has issued gazette notification namely Motor Vehicle (Amendment-1) Rules, 2021. Under rule 225F of this rule, amendment has been inserted regarding Hit & Run Cases, whereunder certain amendments has been made. It is also mentioned in the notification that the notification will be given effect since 15.09.2021. Over the time it has been deleted by the department in light of CWJC No.3362/2022.

- 10. That it is most humbly submitted that CWJC No.3362/2022, has been disposed of by the Hon'ble High Court vide order dated 28.11.2023, whereby and whereunder the Hon'ble Court has directed that if any compensation remains to be paid, which payment was interdicted only by virtue of the pendency of the instant writ petitions and the interim order passed therein, the same would be paid as expeditiously as possible by the District Magistrates to the victims of the accident or their dependents.*
- 11. That it is further most humbly submitted that the authority concerned has perused the matter and found that matter at hand is covered under Solatium Scheme, 1989 because date of death of the son of writ petitioner was 21.03.2022, (prior to 01.04.2022) hence vide letter no.168 dated 01.02.2024 a report has been sought from the Sub-Divisional Officer, Bettiah Sadar (claims Enquiry Officer under the scheme).*
- 12. That considering the aforesaid direction the Sub-Divisional Officer, Bettiah Sadar vide his letter no.17 dated 03.02.2024 has sent his recommendation for payment of compensation of Rs.2,00,000/- (Two Lakh Rupees).*



13. *That it is most humbly submitted that, after receipt of the recommendation of Sub-Divisional Officer, Bettiah Sadar, the authority concerned has perused the matter and found that matter at hand is covered with Solatium Scheme, 1989 under which Rs.25,000/- (Twenty Five Thousand) is allowed as compensation as death claim, hence assigning the reasons therein vide sanction order dated 05.02.2024 contained in memo no.43/transport, Rs.25,000/- has been sanctioned in favour of the writ petitioner and same has been communicated to the Lead Insurer i.e. New India Assurance Company Ltd. for payment.”*

6. A supplementary counter affidavit was also filed by Respondent Nos. 4 and 5, wherein it is stated as follows:

- “3. *That this supplementary counter affidavit is being filed in compliance to the order dated 30.04.2024, passed by this Hon'ble Court in the instant matter, whereby and whereunder this Hon'ble Court has been pleased to direct the counsel for the State to produce the letter no.5097 dated 18.08.2021, issued by the Transport Department, Bihar.*
4. *That in compliance to the aforesaid order a copy of letter no.5097 dated 18.08.2021, issued by the Transport Department, Bihar.*
5. *That with regard to the aforesaid letter it is most humbly submitted that the letter no.5097 dated 18.08.2021 has been issued by the department in pursuance to notification no.684 dated 11.08.2021 by which Gazette Notification namely Motor Vehicle (Amendment-1) Rules, 2021 has*



been issued giving effect from 15.09.2021. Over the time the said notification was deleted by the department in light of the CWJC No.3362/2022 and other analogous cases.”

7. Respondent Nos. 4 and 5 further filed the second supplementary counter affidavit, wherein it is stated as follows:

- “3. That this supplementary counter affidavit is being filed in compliance to the order dated- 24/06/2024, passed by this Hon'ble Court in the instant matter, whereby and where under this Hon'ble Court has been pleased to direct the counsel for the State to produce notification issued by the department, deleting the Circular dated 18.08.2021 and also copy of the final judgment passed in writ petition bearing CWJC No. 3362 of 2022.*
- 4. That in compliance to the aforesaid order it is most humbly submitted that department's letter no. 5097, dated- 18/08/2021 is not a Circular, but a directive letter all the District Magistrates, Senior issued to all the Superintendent of Police/Superintendent of Police of Bihar State to organize a training programme at district level so that the Bihar Motor Vehicle (Amendment-1) Rule, 2021 and Bihar Motor Accident Claims Tribunal (Amendment-1) Rules, 2021 shall be given effect from 15/09/2021.*
- 5. That in compliance of the order dated- 24/06/2024, passed by the Hon'ble Court in the matter, final judgment dated- 28/11/2023 passed in writ petition bearing CWJC No. 3362 of 2022, is being annexed herewith this supplementary counter*



affidavit.

6. *That it is most humbly pertinent to mention here that under Solatium Scheme, 1989 compensation of Rs. 25,000/- had been sanctioned to the writ petitioner. It is further submitted that vide Cheque No. 582188 dated-13/06/2024 aforesaid amount has been paid to the writ petitioner.”*

8. The learned Single Judge after hearing the learned counsel for the respective parties and considering the materials placed on record has been pleased to hold as follows:

- “8. *I have heard the learned counsel for the parties and perused the materials on record from which it is apparent that the aforesaid notification dated 11.08.2021, issued by the Transport Department, Government of Bihar, Patna, postulates that in a hit and run case, in cases of death, a sum of Rs. 5 lakh, by way of ex gratia amount, would be paid to the next of kin of the deceased and moreover, the said notification dated 11.08.2021 has though been repealed by a subsequent notification dated 20.10.2023, however, with effect from 26.10.2023, hence undeniably during the intervening period, the aforesaid notification dated 11.08.2021 was legally valid, enforceable, applicable and binding upon the respondents, thus the petitioner is entitled to be paid a sum of Rs. 5 lakhs, by way of ex gratia amount.*
9. *Consequently, I deem it fit and proper to direct the District Magistrate, West Champaran at Bettiah to pay the balance amount of Rs. 4,75,000 to the petitioner,*



within a period of eight weeks from today, failing which he shall not draw his salary.”

9. The learned counsel appearing for the State contended that the impugned order is not sustainable in the eyes of law. She argued that there is no dispute that the son of the writ petitioner met with a road accident which took place on 21.03.2022 at about 10:15 p.m., and that he died on account of such accident and Nautan (Jagdishpur) Police Station Case No. 158 of 2022 was registered in connection with such accidental death.

According to the learned State Counsel, the Gazette notification dated 11.08.2021 was issued by the Transport Department, Government of Bihar, Patna vide ‘Bihar Motor Vehicle (Amendment-1) Rules, 2021’, which was made effective from 15.09.2021 and the amended section 225-F(2) provided for the payment of interim compensation to the tune of Rs. 5,00,000/- (Rupees Five Lakhs Only) to the dependent of the deceased in the event of death and Rs. 50,000/- (Rupees Fifty Thousand Only) to the person sustained grievous hurt from the Bihar Vehicle Accident Assistance Fund.

It is argued that the particular notification was the subject matter of challenge before this Court in C.W.J.C. No.



2183 of 2022 (*Sandeep Raj -Vrs.- State of Bihar & Ors.*) and other analogous cases, and the Division Bench of this Court vide order dated 21.12.2022 has been pleased to stay the operation of the Gazette Notification Nos. 683 and 684 dated 11.08.2021 so also the Public Notice dated 01.12.2021 and further directed the State Government to revisit the issue.

It is further argued that in compliance of the order passed by this Court, the State Government revisited the earlier Notification dated 11.08.2021 and issued fresh Notification dated 20.10.2023 which was published in the Bihar Gazette, dated 26.10.2023 to be made effective from that day and it was styled as 'Bihar Motor Vehicle Accident Claim Tribunal (Establishment and Service Condition) Rules, 2023', whereby and whereunder, the amendment made in Rule 225-A to 225-F and Rule 226 to Rule 247 was repealed.

It is further argued that the payment of Rs. 5 Lakh as interim compensation amount could be made to the dependent of the deceased by way of interim arrangement in terms of section 225-F of the Gazette notification dated 11.08.2021 which deals with hit and run cases and since the operation of the notification was stayed and it was ultimately repealed by the State Government, the writ petitioner could not be granted the



interim compensation amount.

She further argued that the writ petitioner is only entitled to a sum of Rs. 25,000/- (Rupees Twenty-Five Thousand Only) as per the Solatium Scheme, 1989 and in view of section 161 of the Motor Vehicles Act, 1988, amended from time to time, the amount of compensation for hit and run claim has been fixed from Rs. 25,000/- to Rs. 2 Lakh in cases of death. However, the said amendment came into effect from 01.04.2022. Hence, the writ petitioner shall be entitled only for a sum of Rs. 25,000/- as the death of son of the writ petitioner has taken place on 21.03.2022.

10. Learned counsel for the respondent on the other hand submitted that C.W.J.C. No. 2183 of 2022 and other analogous cases were filed in a different context altogether. The stay order that was passed has nothing to do with grant of compensation to the writ petitioner and in fact, the subsequent notification dated 20.10.2023 repealing the earlier notification dated 11.08.2021 was having no retrospective operation and therefore, such repeal which came into effect from 26.10.2023 will have no bearing regarding payment of Rs. 5 Lakh to the writ petitioner by way of *ex gratia* amount on account of death of his son in a hit and run case as the accident and death took



place on 21.03.2022.

11. Adverting to the contentions raised by the learned counsel for the respective parties, at first, we want to highlight certain undisputed facts. There is no dispute that the accident, in question, in which the son of the writ petitioner died, took place on 21.03.2022 and the death also took place on the same day and in connection with such accident and death, the case was registered at Nautan (Jagdishpur) Police Station. It is also not disputed that Gazette notification was published on 11.08.2021 by the Transport Department, Government of Bihar, Patna, which was styled as 'Bihar Motor Vehicle (Amendment-1) Rules, 2021' and it was made effective from 15.09.2021 and the same was in force till it was repealed by issuance of a fresh notification dated 20.10.2023, which was made effective from 26.10.2023 after its publication in the Bihar Gazette on that day. Thus, the notification dated 11.08.2021 was in force as on the date on which the accident and the death took place which was obviously much before the issuance of fresh Gazette notification.

12. In view of the foregoing discussions, we are of the view that the stay of operation of the Gazette notification by this Court in the writ petition for a particular period, is not a ground



to debar the claim of the writ petitioner to get the relief as per the said notification. It is pertinent to note that though the Division Bench of this Court vide order dated 21.12.2022 passed in C.W.J.C. No. 2183 of 2022 and other analogous cases stayed the operation of Gazette notification Nos. 683 and 684 dated 11.08.2021, but vide order dated 28.11.2023, while disposing of the writ petitions, made it clear that if any compensation amount remains to be paid, which payment was interdicted only by virtue of the pendency of the writ petitions and the interim order passed therein, the same shall be paid as expeditiously as possible by the District Magistrates to the victims of the accident or their dependents.

13. The Hon'ble Supreme Court in the case of ***P. Mahendran -Vrs.- State of Karnataka, reported in (1990) 1 Supreme Court Cases 411***, has held as follows:

“5. It is well settled rule of construction that every statute or statutory rule is prospective unless it is expressly or by necessary implication made to have retrospective effect. Unless there are words in the statute or in the Rules showing the intention to affect existing rights the rule must be held to be prospective. If a rule is expressed in language which is fairly capable of either interpretation, it ought to be construed as prospective only. In the absence of any express provision or



necessary intendment, the rule cannot be given retrospective effect except in matter of procedure ...”

In the case of ***Zile Singh -Vrs.- State of Haryana,***
reported in (2004) 8 Supreme Court Cases 1, the Hon’ble
Supreme Court has held as follows:

“13. *It is a cardinal principle of construction that every statute is prima facie prospective unless it is expressly or by necessary implication made to have a retrospective operation. But the rule in general is applicable where the object of the statute is to affect vested rights or to impose new burdens or to impair existing obligations. Unless there are words in the statute sufficient to show the intention of the legislature to affect existing rights, it is deemed to be prospective only — “nova constitutio futuris formam imponere debet non praeteritis” — a new law ought to regulate what is to follow, not the past. (See Principles of Statutory Interpretation by Justice G.P. Singh, 9th Edn., 2004 at p. 438.) It is not necessary that an express provision be made to make a statute retrospective and the presumption against retrospectivity may be rebutted by necessary implication especially in a case where the new law is made to cure an acknowledged evil for the benefit of the community as a whole (ibid.,*



p. 440).”

The Hon’ble Supreme Court in the case of ***M.P. -Vrs.- G.S. Dall and Flour Mills, reported in 1992 Supp (1) Supreme Court Cases 150***, has held as follows:

“21. ...In view of this interpretation, the 1987 amendment has the effect of rescinding the exemption granted by the 1981 notification in respect of the industries mentioned by it. Section 12 is clear that, while a notification under it can be prospective or retrospective, only prospective operation can be given to a notification rescinding an exemption granted earlier. In the interpretation, we have placed on the notification, the July 3, 1987 notification cannot be treated as one merely clarifying an ambiguity in the earlier one and hence capable of being retrospective; it enacts the rescission of the earlier exemption and, hence, can operate only prospectively. It cannot take away the exemption conferred by the earlier notification.”

14. In view of the final order passed by the Division Bench on 28.11.2023 in the writ petitions and the judgments of the Hon’ble Supreme Court as discussed above along with the fact that the repeal notification dated 20.10.2023 has got no retrospective effect, we are of the humble view that the learned



Single Judge has rightly come to the conclusion that the notification dated 11.08.2021 was legally valid, enforceable, applicable and binding upon the respondents and therefore, the writ petitioner is entitled to be paid a sum of Rs. 5 Lakhs by way of *ex gratia* amount and since Rs. 25,000/- was earlier paid to the writ petitioner, therefore, a direction was made to the District Magistrate, West Champaran at Bettiah to pay the balance amount of Rs. 4,75,000/- (Rupees Four Lakh Seventy-Five Thousand Only) to the writ petitioner.

15. We find no perversity or error in the impugned order and thus in the limited scope of interference in the intra-court appeal, which is in the nature of corrective jurisdiction and rarely used to correct errors and if the Hon'ble Single Judge's order is found to be perverse, illegal, irrational or contrary to the settled law, we are of the view that the Letters Patent Appeal filed by the State challenging the impugned order is devoid of merits and accordingly, stands dismissed.

16. It is stated by the learned counsel for the respondent/writ petitioner that in spite of the impugned order passed by the learned Single Judge, the balance amount of Rs. 4,75,000/- (Rupees Four Lakh Seventy-Five Thousand Only) has not yet been paid by the District Magistrate, West



Champanan at Bettiah to the writ petitioner within the prescribed period even though no stay order has been passed in this Letters Patent Appeal.

In view of such submissions, the District Magistrate, West Champanan at Bettiah is hereby directed to disburse the balance amount of Rs. 4,75,000/- (Rupees Four Lakh Seventy-Five Thousand Only) to the writ petitioner within a period of four weeks from today positively.

We make it clear that this particular amount is to paid as interim compensation amount and it is open to the writ petitioner to seek appropriate remedy in accordance with law for claiming higher compensation.

17. Interlocutory Application(s), if any, shall also stand disposed of.

(Sangam Kumar Sahoo, CJ)

(Harish Kumar, J)

shailendra/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	30.04.2026
Transmission Date	NA

