IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Appeal No.603 of 2012

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1. Phuleswari Devi W/o Siyaram Yadav,
2. Siyaram Yadav S/o Late Hari Prasad Yadav
3. Nedan Kumari Minor D/oSiyaram Yadav
4. Niranjan Kumar Yadav Minor S/o Siyaram Yadav
5. Suman Kumar Minor S/o Siyaram Yadav
6. Mamta Kumari Minor D/o Siyaram Yadav

All are permanent resident of village - Ramjanipur, P.S- Kahalgaon, District- Bhagalpur.

.... Appellant/s

Versus

1. Sri Ramjee Mandal S/o Chandra Mandal, resident of village - Parasbanna, P.S- Pirpainty, Distrct- Bhagalpur.
2. Sri Nandlal Agrawal S/o Late Hiralal Tekriwal, resident of mohalla- Kahalgaon, P.S- Kahalgaon, District- Bhagalpur.
3. The Divisional Manager, Oriental Insurance Company Ltd. Katchhari Chowk, P.S- Kotwali, District- Bhagalpur.
4. The Divisional Manager, Oriental Insurance Company Ltd. Katchhari Chowk, P.S- Kotwali, District- Bhagalpur.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Mukesh Prasad Singh, Adv.
For the Respondent/s : Mr. Rana Randhir Singh, Adv.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL JUDGMENT
Date: 17-07-2015

Heard learned counsel for the appellants and learned counsel for the respondents.

In this case, claimants are the appellants raising a grievance that the Tribunal, while computing the amount of compensation, has wrongly taken notional income Rs. 15,000/- per annum whereas it should have been in terms of the judgment of the Hon’ble Supreme Court, Rs. 3,000/- per month.

With respect to loss of future prospects, 50% of the amount should be added as additional amount of compensation and in stead of multiplier of 16, it should be 18 multiplier, the interest should be calculated from the date of filing of the application.

The short fact of this case, Ranjit Kumar Yadav was going to Shivnarayanpur Market on 13th July 2007, at 8.15 A.M. as he reached near Shivnarayanpur Chowk, a truck bearing registration No. B.R.J.-4221 was coming from eastern side, as driver was driving rashly and negligently, dashed him resulted into death of Ranjit Kumar Yadav on the spot.

A case was registered, vide Kahalgaon P.S. Case No. 281 of 2007, later on claim application was filed stating that the deceased was earning Rs. 5,000/- per month as was coaching institute.

The Tribunal arrived to the finding that there was no material to suggest that the victim was earning Rs. 5,000/- per month nor was employed anywhere, in absence of any material, notional income of Rs. 15,000/- per annum was taken for calculation of compensation amount.

Counsel for the appellants submits that in **National Insurance Company Ltd. vs. Khimlibai and others, reported in (2009) 10 SCC 648,** where the Court has said that the person self employed not in a fix salary, at least, the notional income of daily wages earner fixed under minimum wages to be taken into consideration Rs. 100/- per day, in one month, income will be Rs. 3,000/- per month, the total annual income will be Rs. 24,000/- after deducting 1/3rd for his personal use.

In the case of **Rajesh vs. Ranbir Singh**, reported in ***(2013) 9 SCC 54,*** the Court has considered the judgment of **Sarla Verma case**, reported in ***(2009) 6 SCC 121***, including **Santosh Devi vs. National Insurance Company Ltd.,** reported in ***(2012) 6 SCC 421*** and held, even though a person is self employed, he cannot be left high and dry with respect to future prospects, held a person self employed or engaged in business, dependent will be entitled to additional compensation under future prospects on the ratio a person having age between 40-50 years, additional of 50% for future prospects to be added to the compensation amount, multiplier has been claimed to be 18, placing reliance on Sarla Verma case (supra) where the Hon'ble Supreme Court has framed its own tabular chart, on that basis, claimed 18 multiplier in stead of 16 is allowed. It is well known principle of law that the interest will be counted from the date of filing of the application.

Counsel for the Insurance Company does not dispute the claim of appellant.

In such view of the matter, the award is modified to the extent that in stead of Rs. 15,000/- notional income, the Tribunal will calculate the amount of compensation at the rate of Rs. 36,000/- per annum after 1/3rd deduction against personal expenses added with 50% for future prospect, multiplier 18 instead of 16. The calculation of interest would be made from the date of the filing of the application.

Accordingly the award is modified to the aforesaid extent. The court below is directed to recalculate the amount in terms as aforesaid direction and prepare the award.

The Insurance Company is directed to make payment of the revised award amount within a period of three months.

With the above observation/direction, this application is allowed to the aforesaid extent.

(Shivaji Pandey, J)

Mahesh/-

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