

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Appeal No.582 of 2013

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Oriental Insurance Company Ltd. through Sri V.K. Jha Dy. Manager and Duly constituted Attorney the Oriental Insurance Company. Ltd. Regional Office Pir Mohani Kadam Kuan, Patna.

.... Appellant/s

Versus

1. Radha Devi wife of Kailash Ram, Resident of Mohalla- Kabir Ashram Station Road- Samastipur, P.O. and P.S.- Samastipur, District- Samastipur
2. Prabhash Kumar Son of Hari Ram Yadav, resident of village- Chak Mahila, P.O. Chak Mahila, P.S, P.S. and District -Sitamarhi
3. Baiju Singh Son of Rameshwar Singh, resident of village- Lagunia Ragukanth, P.S. Samastipur, District Samastipur
4. Md. Firoz Khan Son of Md. Hasim Ahmed Khan at and P.O. Keos Nizamat Bithan Chowk, P.S. Samastipur, District Samastipur.
5. Regional Manager the Reliance General Insurance Company Ltd. Himalya House 5th Floor 38 B J.L. Nehru Road, Kolkatta 700071.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Ashok Priyadarshi, Adv.

For the Respondent/s : M/s Sunil Kumar Thakur, Ahtasham Ali Khan and Rajiv Ranjan.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 06-08-2015

Heard learned counsel for the appellant and learned counsel for the respondent.

In the present case, the Insurance Company is the appellant challenging the judgment and award dated 1st April 2013 passed in M.V. Claim Case No. 81 of 2009/59 of 2012 whereby the court has made an assessment of compensation amount of Rs. 4,12,500/-.

It is not in dispute that the victim died on account of vehicular accident. He was bachelor and at the time

of his death, he was aged 27 years earning Rs. 3,000/- per month.

The counsel for the appellant has challenged that for the Bachelor, compensation amount would at 50% but the court below has wrongly made deduction $\frac{1}{3}^{\text{rd}}$ which should be $\frac{1}{2}$, the court below has not taken the incidence of the future prospects which requires that 50% amount of the compensation to be added under that category. It further appears that the Claim Tribunal has taken multiplier of 17, it should be 18 looking to the age of the mother of the deceased. The court has taken only funeral expenses of Rs. 2,000/- and has not considered the item of love and affection. If all those would be added, the amount that has been assessed, will not vary.

In such view of the matter, this Court does not find any merit in the present application. Accordingly, the same is dismissed.

Statutory amount of Rs. 25,000/- lying be returned to the court below for the payment or adjustment against the compensation amount awarded.

Lower Court Records of the court below be returned back to the concerned Court.

(Shivaji Pandey, J)

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