

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Appeal No.99 of 2013

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1. Rita Devi W/o Birendra Sah, R/o village & P.S.-Darauli, Distt-Siwan.
2. Anita Kumari Daughter of Birendra Sah, minor under the guardian of Mother,
R/o village & P.S.-Darauli, Distt-Siwan.
3. Arun Kumar S/o Birendra Sah, minor son under the guardian of Mother, R/o
village & P.S.-Darauli, Distt-Siwan. Appellant/s

Versus

1. Brijesh Harilal Gupta S/o Harilal Gupta, R/o village -Bhosla Chut Kothapur
Road, Sangsi Maharastra.
2. The New India Assurance Company Ltd. Respondent/s

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Appearance :

For the Appellant/s : Mr. Sunil Kumar Pandey, Adv.
For the Respondent/s : Mr. Bimlesh Kumar Jha, Adv.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 20-07-2015

Heard learned counsel for the appellants and
learned counsel for the Insurance Company.

In this case, claim of the appellants is that the
Tribunal has not properly calculated the compensation amount.

The fact of this case is that the victim was going
to his in-laws house on bicycle and when he reached village-
Baghauni on road, a motor cycle bearing registration No.
MH10Y-3810 dashed him which caused serious injury, the victim
who during the course of treatment died. The age of the victim
was 40 years and his income has been assessed Rs. 3,000/- per
month. The appellants have claimed the compensation of
Rs.2,70,000/-.

The Tribunal arrived to a conclusion that the
claimant is entitled to Rs. 3,80,000/- but on account of demand

of Rs. 2,60,000/- the same was allowed.

Mere error of calculation will not divest the appellants to the compensation amount which is statutory entitled when the Tribunal itself has accepted the earning of the victim was Rs. 3,000/- per month applying proper multiplication, arrived to Rs.3,84,000/- which cannot be denied mere on wrong calculation. The Tribunal committed error in calculation as item of future prospects amount has not been added, as per **Rajesh vs. Ranbir Singh, reported in (2013) 9 SCC 54**, where the Hon'ble Supreme Court has said that even the person who is self employed, the dependant cannot be deprived of the benefit of future prospects and the person below 40 years has been given additional amount of compensation for future prospects at 50% of the compensation amount, in such view of the matter, the 50% compensation amount should be added there and the order of the Tribunal is modified to the aforesaid extent. The court below is directed to make necessary correction in the calculation and prepare the revised amount of compensation. After receipt of the record, the court below will revise the award within three months.

Accordingly, this application is allowed.

(Shivaji Pandey, J)

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