

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.126 of 2004

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1. Kaushlya Devi, wife of Sukeshwar Prasad Sah

2. Sukeshwar Prasad Sah, son of late Kapildeo Sah
both resident of village –Newari, P.O.- Pachbinda, P.S. Taraiya, District- Saran.

(Serial No.1 and 2 were applicant respectively) Appellants

Versus

1. Jawahar Lal Rawat, R/O Vill- Kajipur, P.S.- Doriganj, P.O.- Rasulpur, District- Saran.
(opposite party No.1).....Respondent

2. The Branch Manger, National Insurance Company Ltd.
at Sudarshan Building, Municipal Chowk, Chapra,
P.O.- Chapra, P.S.- Chapra Town, District -Saran
(opposite party No.2).....Respondent

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Appearance :

For the Appellant/s : Ms. Renu Jha, Advocate
For Respondent No.2 : Mr. Sanjay Singh, Advocate
Mr. Bimlesh Kumar Jha, Advocate

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CORAM: HONOURABLE MR. JUSTICE AKHILESH CHANDRA

ORAL JUDGMENT

Date: 03-02-2015

Heard learned counsel for the appellant and learned
counsel for respondent no.2. None appeared on behalf of
respondent no.1, owner of the vehicle.

2. This is an Appeal preferred against Judgment and
Award respectively dated 10th January 2004 and 17th January 2004
passed by 1st Additional District Judge-cum-Motor Accident
Claims Tribunal, Saran in Claim Case No. 24 of 1999 seeking
enhancement of the award of Rs. 1,27,000/- against death of one
Atul Kumar aged 12 years, who died on 22.08.1998 in a road
accident.

3. The appeal is confined to a limited question about

the quantum of compensation.

4. It is submitted that Claim Tribunal has granted a lump sum amount of compensation of Rs. 1,27,000/- deducting compensation paid, whereas in view of decision of the Apex Court in case of *Sarla Verma and others Vs. Delhi Transport Corporation and another reported in 2009 (6) SCC 121*; which further stand approved by special Bench of the Apex Court in case of *Reshma Kumari and another Vs. Madan Mohan reported in 2013 (9) SCC 65*.

5. It is undisputed position that in case of death of the children up to the age of 15 years the notional income is to be considered for the purposes of compensation and it is to be multiplied by twenty with deduction of 50%, in the event, claimants are the parents. Further, in view of the decision of the Apex Court in case of *Kishan Gopal and another Vs. Lala and others reported in (2014) 1 SCC 244*. It is submitted that the notional income, as per schedule, Rs. 15,000/- per annum has been enhanced to Rs. 30,000/-.

6. Taking into consideration the aforesaid decision of the Apex Court, the Claim Tribunal appear entitled for the compensation as Rs, 30,000/- x 20 divided by 2 which comes to the tune of Rs. 3,00,000/-.

7. The insurer respondent no. 2 is directed to make

payment of the aforesaid amount of Rs. 3,00,000/- with interest at the rate of 6% as awarded by Claim Tribunal from the date of filing, deducting the amount already paid.

8. With the aforesaid modification, this appeal stands disposed of.

(Akhilesh Chandra, J)

Ashwini/-
NAFR/AFR

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