IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Appeal No.616 of 2008

==

National Insurance Company Limited, 133/120-P, Transport Nagar, Kanpur serviced through its Branch-Buxar appearing through Anjani Kumar, Son of Shri Shyama Prasad, at present posted as Administrative Officer and Authorized Signatory of M/S National Insurance Company Limited, Regional Office, 4th Floor, Sone Bhawan, Birchand Patel Path, R-Block, Patna.

..........Opposite Party No. 2 ....Appellant

Versus

1. Mosmat Jiuti Kuer, Wife of Late Ram Ji Singh, resident of Village + P.O.-Sonpa, P.S.-Rajpur, District-Buxar.

..............Claimant…….Respondent 1st Set

2. Surendra Kumar Singh, Son of Ram Chela Singh, Mohalla-Faizal Ganj, P.O. + P.S.-Sasaram, District-Rohtas.

..........(Owner of Bus No. BR-24 P-1510)

........Opposite Party No. 1........Respondent 2nd Set

3. Kamta Singh, Son of Sheo Pujan Singh, resident of Village + P.O.-Dhagriaja, P.S.-Kareghar, District-Rohtas.

.........(Driver of Bus No. BR-24 P-1510)

........Opposite Party No. 3.......Respondent 3rd Set

==

Appearance :

For the Appellant	:	Mr. Er. Harendra Kumar, Advocate
		Mr. Sanjeev Kumar, Advocate
For the Respondent No.1	:	Mr. Bachan Jee Ojha, Advocate
For the Respondent No.3	:	Mr. Jai Prakash Singh, Advocate
		Mrs. Arti Kumari, Advocate
		Mrs. Sheela Rani, Advocate

==

CORAM: HONOURABLE MR. JUSTICE AKHILESH CHANDRA

ORAL JUDGMENT

Date: 05-01-2015

Counter affidavit has been filed on behalf of respondent no. 1 during course of the day.

2. Heard the parties.

3. This appeal has been preferred by the appellant (Insurance) against the judgment dated 09/05/2008 passed by Sri Balram Singh, Additional District and Sessions Judge, F.T.C.-2-Cum-Claim Tribunal Buxar, in M.V. Case No. 4/1997.

4. Since limited question involved in this appeal, no details of the fact etc. are required to be incorporated.

5. The only point involved in this appeal is as to whether the multiplier applied by the Claim Tribunal Below 18 is to be reduced to 11 and the deduction of $1/3^{rd}$ is to be enhanced to 50%. Undisputedly, the claim is preferred by the mother of the deceased, who was unmarried and taking into consideration the age of the claimant there is no dispute amongst the learned counsels appearing on behalf of the parties that the multiplier required is 11 though wrongly applied as 18 considering the age of the deceased.

6. It is now undisputed that in view of the parents being claimant, as per the prescribed law, the deduction is to be of 50%. Hence, taking into consideration undisputed assessed notional income of the deceased Rs. 15,000/- per annum, if multiplied by 11, it comes to the tune of Rs. 1,65,000/- which after deduction of 50% comes to the tune of Rs. 82,500/-, wherein, Rs. 9,500/- is to be added as other expenditures and it comes to the tune of Rs. 92,000/-.

7. In that view of the matter, the award, as passed by the Claim Tribunal Below, is modified to the extent of Rs. 92,000/- with interest at the rate of 9% as awarded by the Claim Tribunal Below.

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

9. As prayed for, the statutory amount of Rs. 25,000/- be remitted back to the Claim Tribunal Below for further needful.

(Akhilesh Chandra, J)

Praveen-II/-

U		T	