

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Appeal No.72 of 2014

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1. Duleshri Devi W/O Bhola Ram
2. Bhola Ram S/O Sathuri Ram Resident Of Village- Kumhau, P.O- Kumhau, P.S- Sheosagar, District- Rohtas.

.... Appellant/s

Versus

1. Uttam Kumar S/O Sri Radha Prasad Singh Resident Of Vill- Chukhanda Chitauli, P.O- Samardiha, P.S- Sasaram (M), District- Rohtas.
2. The Branch Manager, Bajaj Allianz General Insurance Co. Ltd., C.E. Plaza, Air Port Road Warwada, Pune- 411006.
3. Branch Manager, Bajaj Allianz General Insurance Co. Ltd., Exhibition Road, Patna.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. SEEMA KUMARI

For the Respondent/s : Mr. ARCHANA SINHA @ ARCHANA SHAHI

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 22-09-2015

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

In the present appeal the appellants are challenging and making prayer for modifying the judgment dated 17.4.2013 and award dated 3.6.2013 passed by the Additional District Judge Ist-cum-Motor Accident Claims Tribunal, Rohtas at Sasaram in Claim Case No.159 of 2011 by which Tribunal has awarded a meager amount of Rs.1,54,500 for the death of a minor boy aged about six years.

Brief facts of the case is that on 27.7.2009 at about 6.30



A.M. at Village Kumhau near Sati Mai Asthan, the deceased Vikash Kumar was playing with other children. In the meantime, Piaggio Tempoo bearing registration no. BR 24P/2028 came very rashly and negligently dashed Vikash Kumar, as a result of which he sustained grievous injuries. He was brought to Sadar Hospital, Sasaram, from there he was referred to Varanashi for better treatment but died during the treatment at Varanasi which led to filing of Sheosagar P.S. Case No.146 of 2009 under Sections 279 and 304(A) of the Indian Penal Code.

Claim application has been filed by the parents and the Motor Vehicle Tribunal has granted Rs. 1,54,500/- as compensation along with interest at the rate of 6% per annum from the date of filing of claim application till the final payment to the claimants.

Learned counsel for the appellants submits that the amount that has been awarded by the Tribunal is grossly inadequate, it should be enhanced substantially in terms of the judgment in the case of Kishan Gopal and another V. Lala and others, reported in (2014) 1 SCC 244 whereas learned counsel for the Insurance Company has submitted that the amount that has been computed by the Tribunal is completely proper and

justified in view of the judgment of the Hon'ble Supreme Court in the case of Reshma Kumari and others V. Madan Mohan and another, reported in (2013) 9 SCC 65 as well as Puttamma and others V. K.L. Narayana Reddy and another, reported in (2013) 15 SCC 45

This issue has already been discussed by me in the case of Iffco Tokio General Insurance Company Limited V. Raj Kumari Devi and others in M.A. No.311 of 2013 where this Court has considered the judgment of the Hon'ble Supreme Court in the case of Reshma Kumari (supra), Puttamma (supra) and Kishan Gopal (supra) and the Court has found that case of Kishan Gopal (supra) has specifically dealt with the compensation amount in case of death of minor.

In such view of the matter, this appeal is also allowed in terms of the aforesaid judgments, and as such the calculation that has been mentioned in the case of Kishan Gopal (supra) will be the amount of Rs.5,00,000/- in the present case. Interest will be calculated at the rate of 6% from the date of award till the date of final payment.

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(Shivaji Pandey, J)