

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.188 of 2014

=====

1. The Branch Manager, National Insurance Co. Ltd, Rajendra Nagar, Nawada (Insurer Of Truck No. Br-13g-8731 Vide Police No. 171101/31/08/670001303) Valid From 20.12.2008 To 19.12.2009

.... Appellant/s

Versus

1. Awadhesh Prasad Singh S/O Maheshwari Singh
2. Manti Devi W/O Awadhesh Prasad Singh Both Are Residents Of Village- Gopalpur, P.S- Akbarpur, District- Nawada.
3. Sheo Nath Yadav S/O Ram Narayan Yadav Residing Ag Bengaya, P.S- Kodarma, District- Hazaribagh

.... Respondent/s

=====

Appearance :

For the Appellant/s : Mr. Prakash Kumar, Adv.

For the Respondent/s : Mr. Sanjay Parasmani, Adv.

=====

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL ORDER

6 15-09-2015 In the present case, I.A.No. 6834 of 2015 has come for consideration for staying the certificate proceeding. In spite of dealing with the stay matter with the consent of parties, this Court is inclined to dispose of the appeal it self.

As there is a delay of eight months in filing the appeal, the reason has been shown by the appellant in Para-3, 4 and 5.

Looking to the facts mentioned therein, the delay is condoned and the I.A. is allowed.

With regard to the merits of the case, the appellant Company has raised two grievances, one with regard to quantum of compensation as the victim was a bachelor, the court below has

wrongly deducted $1/3^{\text{rd}}$ for his personal expenses whereas deduction should be half and the second objection is that it has been found by the investigator of the Company that the driver at the time of accident was holding a fake driving licence, as such, liberty should be given to the Insurance Company to recover the amount of compensation from the owner of the vehicle.

Short facts of the case is that the victim was standing near Nawada, the truck bearing Registration No. BR-13G / 8731 dashed the victim which led to his death. The driver was driving the vehicle in rash and negligent manner and on that account the accident had taken place.

Parties led their evidence. The court below has calculated the compensation amount on the basis of notional income of Rs.3,000/- per month and found that the claimant was entitled to Rs.4,12,500/-. Limited ground is that calculation has to be done on the basis of notional income of Rs.18,000/- per annum as the victim was a bachelor. The court below has wrongly deducted $1/3^{\text{rd}}$ in place of half.

From perusal of the award it is clear that the Tribunal has not granted any compensation under different heads, such as, future prospect, love and affection, the amount under funeral expenses is also very small amount. If all the amounts would be

added, then there will be hardly any difference in the amount awarded by the Tribunal.

In such view of the matter, this Court does not find any merit in the present appeal. However, as has been submitted that the driver was holding fake driving licence at the relevant time, which has been dealt with by the Tribunal in Para-8. In view of said fact the Insurance Company will be at liberty to recover the amount of compensation from the owner of the truck.

The statutory amount lying in this Court be remitted to the court below to be paid to the claimant.

With this observation, this appeal is dismissed.

(Shivaji Pandey, J)

Jay/-

U			
---	--	--	--