

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Appeal No.284 of 2009

=====

Smt.Sarita Devi & Ors

.... Appellant/s

Versus

Sri Jyoti Kumar Khemka & Ors

.... Respondent/s

=====

Appearance :

For the Appellant/s : Mr. SANTOSH KUMAR SINHA-2 &
Mr. Uttam Kumar Mishra, Adv.

For the Respondent/s : Mr. Binay Kumar. Adv.
Mr. Nirmal Kumar, Adv.

=====

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 07-10-2015

Heard counsel for the appellants and the respondents.

In the present case, some facts are admitted, victim was driver of truck bearing Regd. No. BR08A 4919 and while going along with another truck vide Regd.No. JH 06B 1705, both the trucks were running together. At about 10:30 P.M. when both the trucks arrived near Madrauni More, the tire of truck bearing Regd. No. BR08A 4919 got punctured due to some nails kept on the road. The Driver stopped he vehicle, the cleaner got down, miscreants surrounded both the trucks, snatched money and killed the victim. Police registered Gopalpur P.S.Case No. 227 of 2005 u/s 396 IPC and also this claim case was filed by the claimant.

The Tribunal, placing reliance on 2000(1) PLJR SC 30 (Rita Devi and others v. New India Insurance Company and another where the Hon'ble Supreme Court has dealt with issue of a person being killed in course of journey has been dealt with and held that if the dominant intention of the miscreants is the killing of the victim, in that circumstance, it will not be an accident under the Motor Vehicle Act whereas if the criminals in furtherance of other nefarious acts

put the person to death in that circumstance claimant will be entitled to compensation. In the present case murder has taken place in furtherance of other nefarious acts i.e. committing road robbery and, as such, the Tribunal has rightly come to the conclusion of entitlement of compensation amount.

The present appeal has been filed for enhancement of compensation claiming that, instead of choosing Multiplier 16, it should be 17 and rate of interest is also under challenge, claim has been made of 12 per cent interest whereas the Tribunal has allowed 9 per cent only.

The age of the victim at the time of death was 32 years. In view of *Sarla Verma v. DTC* (2009)6 SCC 121 tabular chart fixing multiplier has been provided with respect to age. Looking to the age of the victim for computing compensation '16' will be appropriate multiplier as the age of victim has been assessed in between 31 to 35 years. So this Court is of the view that the Tribunal has not committed any error in choosing right multiplier so much so interest given by the tribunal cannot be said to be bad but the Tribunal has not granted any compensation for future prospect as well as granted very meager amount for consortium. As the age of victim was below 40 years, in terms of judgment *Rajesh v. Rajbir Singh* (2013)9 SCC 54 placing reliance on *Santosh Devi v. National Insurance Company Ltd.* (2012)6 SCC 411 has held that additional amount of 150 per cent of the actual income of deceased will be part of compensation amount.

In the present case age of the victim was below 40 years and, as such, the appellants will be entitled to 50% of the additional compensation amount. At the same time the Court has only granted Rs.5,000/- as consortium as well as loss for estate which is a very meager amount, that is enhanced to Rs.25,000/- and for funeral expenses, the amount is enhanced to Rs.10,000/-.

The Court below is directed to make necessary revision in the award, at the same time the Insurance Company and other respondents are also directed to pay the revised compensation amount after adjusting the amount that has already been paid to the claimant.

With this observation, this petition is allowed.

Office is directed to remit back the lower court records forthwith.

Jay/-

(Shivaji Pandey, J)

U			
---	--	--	--