

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Appeal No.576 of 2009

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1. National Insurance Company Ltd. Through Its Chairman Cum Managing Director Null Middleton Street P.M. No. 9292, Kolkata-71, Represented Through Shri Anjani Kumar Working As A.O. And Duly Constituted Attorney Of National Insurance Company Ltd., Having Its Regional Office At 4th Floor, Sone Bhawan, P.S. Sachiwalaya, Distt. Patna

2. National Insurance Company Ltd. Through Its Divisional Manager Gaya Branch, G.B. Road, Gaya, Represented Through Shri Anjani Kumar Working As A.O. And Duly Constituted Attorney Of National Insurance Company Ltd., Having Its Regional Office At 4th Floor, Sone Bhawan, P.S. Sachiwalaya, Distt. Patna

.... Appellant/s

Versus

1. Madan Prasad S/O Late Gyan Mahto Vill- Bara, P.O. Khanzahapur, P.S. Mufassil, Distt. Gaya

2. Smt. Sulekha Devi W/O Madan Prasad Vill- Bara, P.O. Khanzahapur, P.S. Mufassil, Distt. Gaya

3. Uma Shankar Sharma S/O Munindra Kumar Shalma Makhdumpur Oil Company, Vill- Bhawanpur, P.S. Tekari, Distt. Gaya, At Present Residing At Kedarnath Market, G.B. Road, Gaya, Distt. Gaya, Owner Of Tank Lorry No. Br 1 G 3477

4. Rakesh Kumar S/O Ram Khelawan Sao R/O Vill- Lodipur, P.S. Paraiya, Distt. Gaya

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. SHAILENDRA KUMAR, Adv.

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 07-10-2015

Heard counsel for the appellant and the respondents.

In the present appeal, the Insurance Company is challenging the judgment dated 25th June 2009 and award dated 6th July 2009.

Short facts of the case is that the victim, namely, Rahul Kumar was coming from Gaya to village home on 23rd November



2001 and when he reached near Usri Bhuitoli on Gaya-Khizersarai road, a truck (Lorry) bearing Regd. No. BR-1G/3477 being driven rashly and negligently and dashed him as a result of which he died on the spot. A criminal case being Buniadganj P.S.Case No. 63 of 2001 u/s 279304A and 427 IPC was lodged and apart from the criminal case, a claim case was also filed. The age of the victim was given by the father was 15 years but in the P.M. report the age was assessed at 13 years. Treating the age 13 years, the Tribunal has calculated the compensation amount on the basis of notional income of Rs.15,000/- per annum so much so that the Tribunal has chosen the multiplier '15'.

As it appears the victim was a minor, unmarried, so it should have been half but there will be hardly any change in the award. In view of the fact that the court has taken the notional income as Rs.15,000/- per annum, in terms of judgment Laxmi Devi v. Mohd. Tabbar (2008)12 SCC 165 the notional income will be calculated on the basis of the person having earning of Rs.100/- per day in consequence the monthly income will be Rs.3,000/- and the yearly income will be Rs.36,000/-. The deceased being bachelor, the half of the annual income will be Rs.18,000/- so much so that the Tribunal has also not granted any relief for future prospect and for funeral expenses and the amount of compensation for love for parents has not

been taken into consideration properly. If those amount will be added, there will be hardly any change in t he amount already awarded. In such view of the matter, this Court does not find any error in the impugned award.

This appeal is accordingly dismissed. The statutory amount that has been deposited in this Court is directed to be remitted back to the court below for payment to the claimant which will be adjusted against the final amount.

Office is directed to remit the lower court records forthwith.

(Shivaji Pandey, J)

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