

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.434 of 2011

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1. Most. Chandrawati Devi, W/o late Satyanarayan Sharma
 2. Niasha Kumari (Minor)
 3. Asha Kumari (Minor)
 4. Aditya Kumar (Minor)

All are sons and daughter of late Satya Narayan Sharma through mother Most. Chandrawati Devi, Legal and Natural guardian and next friend.

All Residents of Vill. Langeswar Bigha, P.O. + P.S. Akorhi Gola, District – Rohtas (Bihar)

.... Appellants

Versus

1. Yamuna Singh, S/o Late Sukhdew Singh, R/o Vill. Khapra P.O. + P.S. Akorhi Gola, District – Rohtas
2. Oriental Insurance Comp. Ltd. Cinema Road Dehri-On-Sone through Branch Manager, Oriental Insurance Comp. Ltd. Ram Lakhan Complex G.T. Road Sasaram P.O. + P.S. Sasaram, District – Rohtas.

.... Respondents

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Appearance :

For the Appellants : Mr. Rajesh Kumar Singh.

For the Respondents : Mr. Bimlesh Kumar Jha.

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CORAM: HONOURABLE MR. JUSTICE RAJENDRA KUMAR MISHRA

ORAL JUDGMENT

Date: 01-04-2015

Heard learned counsel for the appellants and learned
counsel for the opposite party no.2 Oriental Insurance Company Ltd.

The claimants have filed this appeal under Section 173(I)
of the Motor Vehicles Act, 1988 against the Judgment dated
22.02.2011 and award dated 23.03.2011 passed in M.V. Claim Case
No. 153 of 2008 by the 5th Additional District Judge-cum-Motor
Accident Claim Tribunal (hereinafter referred to as the ‘Tribunal’),
Rohtas at Sasaram, whereunder opposite party no.2, Oriental
Insurance Company was directed to pay compensation of Rs.

1,09,500/- with interest @ 7% per annum to the claimants from the date of filing of the claim application till the date of its actual payment.

The learned counsel for the claimants-appellants submits that AW, Chandrawati Devi, AW 2 Rajendra Singh, AW 3 Shiv Kumar Sharma have stated in their evidence that deceased Satya Narayan Sharma used to earn Rs. 5000/- per month doing the work of Carpenter but in absence of documentary evidence, the learned Tribunal assess the notional income Rs. 15000/- per annum, while in view of the decision in the case of Laxmi Devi & Ors. Vs. Mohammad Tabbar & Anr. (228 ACJ 1488) the income of the deceased ought to have been considered Rs. 36,000/- per annum on the basis of Rs. 100/- per day by the Tribunal.

The learned counsel appearing on behalf of respondent no.2, Oriental Insurance Company while not opposed about the submission of the appellant regarding assessment of Income of deceased Rs. 36,000/- per year on the basis of 100/- per day but submitted that the age of deceased is assessed as 42 years at the time of accident by the tribunal. As such, in view of the decision in the case of Sarla Verma (Smt.) and Ors. Vrs. Delhi Transport Corporation and Anr. (2009) 6 S.C.C. 121, 42 years, the multiplier should be 14 and not 15 to the loss of dependency amount as applied by the learned

Tribunal for assessment of the compensation.

In view of the decision of Laxmi Devi & Ors. Vrs. Mohammad Tabbar & Anr. (2008 ACJ 1488), there is no hesitation to accept the submission of learned counsel for the claimants-appellants to assess the earning of the deceased Rs. 36,000/- per annum on the basis 100/- per day. In view of the decision in case of Sarla Verma (Supra) the multiplier with the loss of dependency amount of per annum should be multiplied by 14 taking into consideration the age of deceased 42 years at the time accident.

Having regard the facts and circumstances of the case, without going into factual aspect in detail, taking into consideration Rs. 36,000/- per annum in come of deceased on the basis of Rs. 100/- per day and deducting 1/3rd personal expenses, the dependency amount would come to Rs. 24,000/- per annum. The age of the deceased has been assessed 42 years at the time of accident. Accordingly, by applying the multiplier of 14 with the dependency amount Rs. 24,000/- compensation amount would come to Rs. 3,36,000/-. To this amount by adding Rs. 2000/-, Rs. 5000/- and Rs.2500/- as added by the tribunal also as funeral expenses loss of consortium to widow of deceased and loss of estate the total amount of compensation would come to Rs. 3,45,500/-.

As such, Rs. 3,45,500/- would be payable by the

Opposite Part-Respondent no.2, Oriental Insurance Company to the claimants-appellants deducting Rs. 5,000/- as paid under section 140 of the M.V. Act with interest @ 7% per annum from the date of filing the claim petition till actual payment.

With the aforesaid modification in the impugned judgment and award, this appeal is disposed of.

(Rajendra Kumar Mishra, J.)

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