IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Appeal No.854 of 2011

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Tara Devi, Wife of Aseswar Pandit, resident of Village-Dumara, P.S., District-East Champaran.

.............Applicant/Appellant

Versus

1. Vinod Kumar Singh, Son of Bharat Bhushan Singh, resident of Village-Jhakhra, P.S.-Piprakothi, District-East Champaran.
2. The Oriental Insurance Company Limited through its Branch Manager, Balua Tal, Motihari.
3. Dhramdeo Narain Thakur, Son of Deep Narain Thakur, resident of Village-Bhawanipur, P.S.-Sangrampur, District-East Champaran.

.............Opposite Parties/Respondents

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Appearance :

For the Appellant : Mr. Pramod Kumar Pandey, Advocate

For the Respondent No. 2 : Mr. Bimlesh Kumar Jha, Advocate

Mr. Sanjay Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE AKHILESH CHANDRA

ORAL JUDGMENT

Date: 30-01-2015

This file is brought under the heading **"For Hearing Under Order XLI Rule 11 CPC".**

2. Heard the parties.

3. This is an appeal preferred against the order dated 30th June, 2011 and award dated 25th July, 2011 passed in Claim Case No. 34 of 2008 by Sri Nand Kumar Srivastava, learned 8th Additional District Judge-Cum-Claim Tribunal, Motihari.

4. Since the appeal is on very limited questions and the liability has already been accepted by the insurer-respondent no. 2, there is no need to go into further details except as is evident from paragraph no. 12 of the order that the Claim Tribunal Below while fixing the notional income of unmarried deceased, who was aged about 21 years and the son of the claimant-appellant, calculated a sum of Rs. 15,000/- per annum, whereas, in view of the decision of Hon'ble Apex Court rendered in a case of **"Laxmi Devi & Ors. v. Mohammad Tabbar & Anr."** reported in **AIR 2008 Supreme Court 1858**, it should have been 30,000/- per annum and if it is multiplied by 16, it comes to the tune of Rs. 4,80,000/- (30,000 x 16) and since the deceased was unmarried and the claimant-appellant is the mother, deduction required is 50% towards personal expenditure, the amount comes to the tune of Rs. 2,40,000/- (4,80,000 – 2,40,000), wherein, Rs. 20,000/- is to be added towards funeral and other expenses making the same to the tune of Rs. 2,60,000/- (2,40,000 + 20,000).

5. In view of the above, the award dated 25th July, 2011, as awarded by the Claim Tribunal Below, is modified to the extent aforementioned. The insurer-respondent no. 2 is directed to pay the said amount with interest @ 6% per annum, as awarded by the Claim Tribunal Below, deducting the amount as already paid within a period of 1 (one) month from today.

6. Accordingly, the appeal stands disposed of.

(Akhilesh Chandra, J)

Praveen-II/-

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