

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Appeal No.552 of 2012

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1. Musmat Deventi Devi W/O Late Nirekhan Rai Resident Of Village Manoharpur,
P.O. Dighwara, Police Station Dariyapur, District Saran.
2. Paod Rai son of Late Nirekhan Rai, resident of village Manoharpur P.S.
Dighwara P.S. Dariyapur, District Saran.

.... Appellant/s

Versus

1. The National Insurance Company Limited Sudarshan Building Municipal
Chowk, Chapra.
2. Ram Awtar Sharma, Mouna Chowk, Chapra (Owner).
3. Paltu Mahto S/O Late Laddu Mahto Resident Of Village Manopur, Police Station
Dighwara, District Saran (Driver).

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. KRISHNA KUMAR SINGH, Adv.
For the Respondent/s : Mr. ASHOK PRIYADARSHI

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 18-05-2015

Heard counsel for the appellant and the respondents.

In this case the appellants have come for revision of the
compensation amount.

It appears that on 23rd May 1998, while the deceased
Nirekhan Rai was going towards Shitalpur on foot in he was dashed
by the offending tanker bearing Regd. No. BR-D /8861 going towards
Sonepur from Dighwara. The vehicle in question was under insurance.

The appellants are not satisfied with the amount that has
been calculated as compensation by the Tribunal. Counsel for the
appellant submitted that the deceased was a mansion and was earning

Rs.126/- per day as per the statement of his wife. The Tribunal has calculated the compensation amount at Rs.18,000/- per annum and after deducting the 1/3rd amount, the actual compensation amount has been calculated at Rs.12,000/- applying multiplier '16'.

Counsel for the appellants submits that the Tribunal has fairly accepted that the deceased was a mansion but the calculation has wrongly been done taking Rs.18,000/- per annum. It is submitted that a mansion employed at that time would not get wages less than Rs.100/- and if Rs.100/- is taken to be his daily income, earning of the deceased will be Rs.3,000/- per month.

According to the principle laid down in recently in judgment of the Hon'ble Supreme Court in (2009)6 SCC 121 (Sarla Verma v. DTC) 121, the deduction of 1/3rd is correct. For future prospect as the age of the deceased was 35 years at the time of accident, 50 per cent will be added Rs.2,000/- as funeral cost is extended to Rs.5,000/- and for consortium the amount should be Rs.20,000/-. The calculation of compensation amount would be made treating earning Rs.3,000/- per month minus 1/3rd share for personal expenses with 50 per cent compensation amount addition for future prospect.

In this manner, the order of the Tribunal is modified and the Tribunal is directed to recalculate the compensation amount and

prepare the award accordingly. The Insurance Company is directed to pay the modified compensation amount within two months from the date of award.

Accordingly, this appeal is allowed to the extent indicated above.

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(Shivaji Pandey, J)

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