

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.671 of 2013

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1. Rizwan Ahmad S/O Late Sarafat Hussain Resident Of Mohalla- Betwan Bazar, P.S- Kasim Bazar, District- Munger At Present Mohalla- Harun Nagar, Sector-I, Phoolwarisharif, P.O And P.S- Phulwarisharif, District- Patna.
 2. Sufiya Farnaz Minor D/O Rizwan Ahamd Under The Guardian Of Their Father Appellant No. 1 Resident Of Mohalla- Betwan Bazar, P.S- Kasim Bazar, District- Munger At Present Mohalla- Harun Nagar, Sector-I, Phoolwarisharif, P.O And P.S- Phulwarisharif, District- Patna.
 3. Zoha Farnaz Minor D/O Rizwan Ahamd Under The Guardian Of Their Father Appellant No. 1 Resident Of Mohalla- Betwan Bazar, P.S- Kasim Bazar, District- Munger At Present Mohalla- Harun Nagar, Sector-I, Phoolwarisharif, P.O And P.S- Phulwarisharif, District- Patna.

.... Appellant/s

Versus

1. The Divisional Manager, Patna, New India Assurance Company Limited (Insurer Of Bus Bearing No Br- 17p- 3055), D.O.J. Red Cross Building, North Of Gandhi Maidan, Patna.
2. The Branch Manager, New India Assurance Company Limited At+ P.O+ P.S And District- Dhanbad (Policy Issuing Office Of Bus Bearing In Br- 17p- 3055.)
3. Nadeem Ahmad S/O Rizwan Ahmad Resident Of Mohalla- Betwan Bazar, P.S- Kasim Bazar, District- Munger At Present Mohalla- Harun Nagar, Sector- Ii, Phoolwarisharif, P.O And P.S- Phulwarisharif, District- Patna.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Ratnakar Ambastha &
Mr. Markandey Upadhyay, Adv.
For the Respondent/s : Mr. Bimlesh Kumar Jha, Adv.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL ORDER

10 08-09-2015

In the present case, appellants are challenging the order dated 9th August 2012 passed in Claim Execution Case No.2 of 2009 by which prayer for deducting 1/3rd share under the personal expenses has been allowed as it was found that the trial court while calculating the compensation amount has missed to

deduct 1/3rd which is statutorily permissible deduction for personal expenses. He has not reduced the compensation amount nor enhanced the same but only allowed 1/3rd deduction from the gross amount of compensation.

It is submitted that at the time of execution the Tribunal did not have power to modify the decree or award passed by the trial court, it could have been modified by filing appeal which the company failed to do.

The executing court only rectified the inherent defect which was committed by the trial court. If this Court interferes with the order, it will be nothing but allowing the illegality to perpetuate and this Court will not like that the illegality committed by the trial court should perpetuate, when inherent defect has been rectified.

In such view of the matter, this Court is not inclined to interfere with the order.

Accordingly, this petition is dismissed.

(Shivaji Pandey, J)

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