

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Appeal No.819 of 2012

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1. Branch Manager, National Insurance Company Ltd., Rajendra Nagar, Nawadah.
 2. Divisional Manager, National Insurance Company Ltd, Division Office-10, Flat No.101-106, N-1, B.M.G. House, Cannaught Place, New Delhi.

Both represented through Shri Anjani Kumar, working as A.O. and Dully Constituted Attorney of National Insurance Company Ltd, having its Regional Office at 4th Floor, Sone Bhawan, Beer Chand Patel Path, P.S.-Sachiwalaya, District-Patna.

.... O.P. No.(I) and (II)...Appellants.

Versus

1. Champa Devi, wife of Late Krishna Paswan.
2. Pratima Kumari, minor.
3. Shartima Kumari, minor.
4. Shankuntala Kumari, minor.

All minor daughters of Late Krishna Paswan.

5. Rohit Kumar, minor son of Late Krishna Paswan.

All minor daughters and son are under the guardianship of their mother, namely, Champa Devi, resident of village-Bhadauri, near Hatt, P.S.-Nawadah, District-Nawadah.

....Claimants.....Respondent Ist Set.

6. Ram Chandra Prasad, son of Late Bineshwar Ram, resident of Bhadauri (Hatt Bali Gali), P.S.-Nawadah, District-Nawadah.

.....Owner of the vehicle its Registration No.JH-10C/0731.

.....O.P. No.2.....Respondents 2nd Set.

.... Respondents.

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Appearance :

For the Appellants : Mr.

For the Respondents : Mr.

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CORAM: HONOURABLE MR. JUSTICE RAJENDRA KUMAR MISHRA

ORAL JUDGMENT

Date: 07-04-2015

I.A. No.2528 of 2015:

Heard learned counsel for the appellants.

This Interlocutory Application has been filed on behalf of the appellants to condone the delay of about 2 months and four days in filing this Misc. Appeal.

For the reasons mentioned in this Interlocutory Application,

the delay of about 2 months and four days in filing this Misc. Appeal is condoned and this Interlocutory Application No.2528 of 2015 is, accordingly, disposed of.

Now, I proceed to consider this Misc. Appeal on its own merit.

Heard learned counsel for the appellants.

2. This Misc. Appeal has been filed on behalf of the appellants under Section 173 of the Motor Vehicle Act against the Judgment and Award dated 07.06.2012 passed by the Additional District Judge, Fast Track Court-IV-cum-Motor Vehicle Accident Claims Tribunal, Nawadah (hereinafter referred to as “the Tribunal”) in M.V. Claim Case No.70 of 2010/09 of 2011, whereunder the National Insurance Company Limited is directed to pay Rs.3,73,500/- with interest at the rate of 6% per annum from the date of filing of the claim petition till realization after deducting the amount if any paid under Section 140 of the Motor Vehicle Act.

3. The sole ground raised by the learned counsel appearing on behalf of the officials of the National Insurance Company Limited is that the income of the deceased has been assessed by the learned Tribunal as Rs.3500/- per month in absence of any documentary evidence only on the basis of oral evidence while the same ought to have been assessed as Rs.3000/- per month.

4. From perusal of the impugned Judgment and Award, I find no infirmity and illegality. Accordingly, this Misc. Appeal stands dismissed. Let the statutory amount deposited by the appellants be returned to the Tribunal for needful.

(Rajendra Kumar Mishra, J)

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