

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Appeal No.833 of 2012

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1. Mohammad Parwej Alam
 2. Md. Aminur Raqshid Ansari
 3. Md. Tabrej Alam
 4. Md. Kamar Tohid
 5. Md. Sabbir Alam, All sons of Late Md. Haroon Rashid.
 6. Residents of village and P.O. Marghiya, Sadar Tola Post, P.S.Barari District Katihar.

.... Appellant/s

Versus

Baldev Singh & Ors.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Sanjay Tiwary, Adv.

For the Respondent/s : Mr. Arun Kumar Srivastava, Adv.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 09-12-2015

Heard the counsel for the appellant, and counsel for the respondent.

In the present case the mother and father of the present appellant was going from Bhagalpur to Naugachia and they were crushed by a truck bearing registration No. HR 58-A-908 led to filing of Naugachia P.S Case No. 191 of 2009 for offence under sections 279 & 304A of the Indian Penal Code. At the same time the appellant filed Claim Case no.151 of 2009 on account of death of his father as well as mother. The grievance of the appellant is that while fixing the compensation amount the Tribunal has taken the amount for the purposes of annual income at Rs. 3,520/- whereas salary certificate issued by the authority concerned shows that father of the present appellant was getting Rs 8,600/- per month and his annual income was of Rs. 1,03,200/- and

instead of taking that amount, the Tribunal has taken a very lower amount as aforesaid. The amount of funeral expenses is also on the low side that should be enhancement and also on account of death of both parents compensation should have been paid due to loss of love and affection.

The counsel for the Insurance Company has submitted that the amount has been fixed on the basis of entry made in the service Book and by adding D.A amount the Tribunal fixed the salary and has not committed any error in fixing the compensation amount. While considering this aspect, this Court is of the view that the Court below has wrongly taken the earning of the deceased of Md. Haroon Rashid, as in the service book, the scale of pay is indicated, the dearness allowance is increased from time to time by the Government on interval of six months based on consumer price index.

In such view of the matter, the Court below instead of taking earning at Rs. 3,500/- per month, should have been taken monthly earning of Rs. 8,600/- and annual earning of Rs. 1,03,200/- The Court has also granted only 2,000/- for the funeral expenses which should be at least Rs. 5,000/- and for love and affection of both the mother and the father at least should be Rs.25,000/-.

The counsel for the Insurance Company submitted that the Insurance Company has already paid the awarded amount.

Accordingly, order dated 31.5.2012 is set aside with the directions to the Tribunal to revise the compensation amount in terms of the directions as stated above. The appellant would get 6% interest from the difference amount from the date of filing of the claim application.

This application is allowed to the as aforesaid extent.

The Court office is directed to remit back the lower court records

forthwith.

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(Shivaji Pandey, J)

