

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.459 of 2012

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Branch Manager National Insurance Company Ltd., Rajendra Path Vaishali Hotel Complex, P.O.and District- Katihar, through Sri Anjani Kumar A.O. Cum- Duly constituted Attorney National Insurance Company Ltd., Regional Office 4th Floor Sone Bhawan, B. C. Patel Road, P.O. – G.P.O., P.s.- Sachiwalaya, District – Patna Appellant

Versus

1. Ganesh Bhagat son fo late Bhuneshwar Prasad Bhagat (claimant no. 1)
 2. Manjoo Devi wife of Ganesh Bhagat (claimant no. 2)
 3. Rajesh Kumar son of Ganesh Bhagat (claimant no. 3)
 4. Puja Kumari daughter of Ganesh Bhagat (claimant no. 4)
 5. Vikas Kumar son of Ganesh Bhagat (claimant no. 5)
- All R/o Mohalla – Binodpur, P.O. & P.S. & District- Katihar
6. Anis Mohammad son of Hussain Seikh
 7. Md. Asmil son of Md. Azziz Hussain Faraqui, Raod No. 101, Lakhpatti Building Tin Basti Nizampura Tal Bhiwandi, District – Thana (Maharastra)

.... Respondents

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Appearance :

For the Appellant/s : Mr. Ashok Priyadarshi

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE JITENDRA MOHAN SHARMA
ORAL ORDER

9 01-09-2016 This miscellaneous appeal has been filed against the order dated 14.06.2010 passed in Motor Vehicle Accident Claim Case No. 14 of 2008 / 03 of 2009 passed by Additional District Judge II-cum-Motor Vehicle Accident Claims Tribunal, Katihar in the matter of Ganesh Prasad Bhagat & Ors. Vs. Aamil & Ors. whereby and whereunder the claimants were found entitled to get compensation amounting to Rs. 40, 94,724/- with interest at the rate of 9 % per annum from the date of institution of claim case till its realization after deducting the amount of Rs. 50,000/- which

was paid by way of ad interim compensation and National Insurance Company Ltd. was directed to pay the above amount to the claimants within 30 days from the date of order.

The National Insurance Company being aggrieved and dissatisfied has filed this appeal. The only ground taken is that the deceased was Bachelor and as such deductions should not be $\frac{1}{3}^{\text{rd}}$ rather it should be $\frac{1}{2}$ from the total income. The total income of the deceased has been assessed at Rs. 61,71,336/- and after deducting $\frac{1}{2}$ from his total income it would come to Rs. 30,85,668/-. Towards other heads Rs. 19,500/- has been awarded thus grand total comes to Rs. 31,05,168/- (thirty one lac five thousand and one hundred sixty eight only).

Learned counsel for the respondents/claimants is in agreement with the above noted principles.

Hence, on the basis of above discussions, it is held that the claimants are entitled to get compensation amounting to Rs. 31,05,168/- (thirty one lac five thousand and one hundred sixty eight only) with interest at the rate of 9 % per annum from the date of institution of the case till its realization. However, the amount of ad interim compensation i.e. Rs. 50,000/- has already been paid shall be deducted from the above awarded amount. The appellant National Insurance Company Ltd. is directed to pay the

above amount to the claimants within 30 days from the date of this order, failing which they are entitled to realize the same through the process of the court. The statutory amount deposited i.e. Rs. 25,000/- be returned to the learned Tribunal for payment to the claimants and that amount will also be deducted from the above awarded amount.

With this modification in the award, the instant miscellaneous appeal is here by partly allowed.

(Jitendra Mohan Sharma, J)

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