

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.997 of 2011

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1. Banita Devi Late Jitendra Malkar Bhagat Resident Of Village-Chotki Sao, P.O. Sawkala, P.S. Amas, District-Gaya
 2. Pratima Kumari D/O Late Jitendra Malkar Bhagat Resident Of Village-Chotki Sao, P.O. Sawkala, P.S. Amas, District-Gaya
 3. Vikki Kumar Late Jitendra Malkar Bhagat Resident Of Village-Chotki Sao, P.O. Sawkala, P.S. Amas, District-Gaya
 4. Kundan Kumar Late Jitendra Malkar Bhagat Resident Of Village-Chotki Sao, P.O. Sawkala, P.S. Amas, District-Gaya
 5. Punam Kumari D/O Late Jitendra Malkar Bhagat Resident Of Village-Chotki Sao, P.O. Sawkala, P.S. Amas, District-Gaya
 6. Chandan Kumar Late Jitendra Malkar Bhagat Resident Of Village-Chotki Sao, P.O. Sawkala, P.S. Amas, District-Gaya
 7. Bhagwatiya Devi W/O Late Shiv Kumar Bhagat Resident Of Village-Chotki Sao, P.O. Sawkala, P.S. Amas, District-Gaya

.... Appellants

Versus

1. The Reliance General Insurance Company Limited Through Its Manager Claims Himalya House(Next To American Centre)8th Floor,38b, Jawahar Lal Nehru Road, Kolkatta
2. Mr. Manoj Dara Sri Darhsan Lal R/O 47 T.P.T. Centre New Subjimandi, Azadpur, New Delhi

.... Respondents

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Appearance :

For the Appellant/s : Mr. Anil Kumar Saxena
For the Respondent/s : Mr. Alok Kumar Shahi, Advocate
Ms. Antra Sinha, Advocate

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CORAM: HONOURABLE MR. JUSTICE JITENDRA MOHAN SHARMA
ORAL ORDER

9 22-08-2016 The instant miscellaneous appeal has been filed for enhancement of compensation amount by the claimants being aggrieved and dissatisfied with the judgment dated 28th April, 2010 and award dated 17th May, 2010, passed in M.A.C.T. Case No. 46 of 2009 / 88 of 2009 by learned 2nd Additional District Judge-cum-Motor Vehicle Accident Claim Tribunal, Gaya on the ground that the learned Tribunal has not relied upon Ext. 1 which is the salary certificate of the deceased showing income of Rs.

3500/- per month besides Rs. 30 /- per day for diet. The deceased was working as cleaner and as such he should not be treated as unskilled labourer and on that ground enhancement has been sought to which the learned counsel for respondent no. 1 opposed by submitting that cleaner comes under the purview of unskilled labourer, author of Ext. 1 was not examined and there are contradictory statement regarding income of the deceased as pleaded in the claim application and further as adduced in oral evidence.

Having considered the submissions urged at the bar and going through the impugned judgment and award, I am of the considered view that the learned Tribunal after taking lenient view has fixed monthly income of the deceased at Rs. 3000/- per month fixing Rs. 100/- per day income though at the time of death the minimum wages of unskilled labourer was Rs. 89/- only. The learned Tribunal has not committed any error or irregularity in fixing the monthly income of the deceased and has rightly not relied upon Ext. 1.

In the result, finding no merit in this appeal, the same is hereby dismissed but under the circumstances without any costs.

(Jitendra Mohan Sharma, J)

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