

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Appeal No.81 of 2016

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1. Kavita Devi, Wife of Late Sanjeev Kumar Sinha @ Tunnajee
2. Anand Kumar Sinha, son of Late Sanjeev Kumar Sinha @ Tunnajee
3. Abhay Anand, son of Late Sanjeev Kumar Sinha @ Tunnajee
4. Summy Kumar, daughter of Late Sanjeev Kumar Sinha @ Tunnajee
(Appellant NO. 4 is minor daughter of deceased Sanjeev Kumar Sinha @ Tunnajee and as such she is filing the present Appeal under the natural and legal guardianship of her mother Kavita Devi i.e. Appellant No. 1)
All are permanent resident of Village +P.O.- Shahpur Patti, P.S.- Shahpur, District- Bhojpur. At present residing at B-73, Mitra Mandal Colony, Saket Bihar, Anishabad, Patna- 2.

.... Appellant/s

Versus

1. Santosh Kumar Singh S/o Sri Dhananjay Singh, resident of Mirganj, Arrah, District- Bhojpur. (Opp. Party No. 1 in the Claim Case.), (Owner of Mahindra Jeep Taxi No. BR- 3P/0433).
2. Chandan Kumar Sah S/o Kapil Muni Sah, resident of At + PO- Gajrajganj, P.S.- Udwant Nagar, District- Bhojpur. (Opp. Party No. 2 in the Claim Case.), (Owner of Mahindra Jeep Taxi No. BR- 3P/0433).
3. National Insurance Co. Ltd. through its Sr. Divisional Manager, Patna Divisional Office No. 1, Arunachal Building, Exhibition Road, Patna- 1 (Opp. Party No. 3 in the Claim Case.), (Insurer of Mahindra Jeep Taxi No. BR- 3P/0433)
4. Smt. Sabita Devi wife of Shri Umesh Kumar, Resident of Maharana Pratap Nagar, At + PO+ PS- Nawada, Arrah, District- Bhojpur. (Opp. Party No. 4 in the Claim Case.), (Owner of Mahindra Sawari Jeep No. BR- 3P/0682)
5. Barmeshwar Pandey S/o Ramjee Pandey, resident of village- Hardiyan, P.S.- Jagdishpur, District- Bhojpur. (Opp. Party No. 5 in the Claim Case.), (Driver of Mahindra Sawari Jeep No. BR- 3P/0682).

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Rajen Sahay, Advocate

For the Respondent/s : Mr. Ashok Priyadarshi, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

ORAL JUDGMENT

Date: 06-07-2017

Re.: Interlocutory Application No.1099 of 2016

The delay in filing of this Appeal is condoned.

Interlocutory Application stands allowed and disposed
of.



Re. : M.A. No.81 of 2016

Seeking enhancement of compensation and challenging the compensation awarded by the Motor Vehicle Accident Claims Tribunal, Patna in Claim Case No.384 of 2010 vide judgment dated 02nd of June, 2015, this appeal has been filed by the claimants.

Claimants herein are the wife and minor children of late Sanjeev Kumar Sinha @ Tunna Jee who met with an accident on 14.02.2008 and succumbed to the injuries sustained in the accident. *Inter alia* contending that they are entitled to a compensation of Rs.10,00,000/- (Rupees ten lacs) due to death of Sanjeev Kumar Sinha @ Tunna Jee, the claim petition was filed and it was said that the deceased was earning about Rs.8,500/- by way of carrying out an occupation of agriculture, fishery and taking private tuition. However, no legal evidence, except the oral statement of the claimant was brought on record to prove the aforesaid fact. Even the parents of the children to whom the private tuition were given were not examined. Therefore, the trial court assessed the income of the deceased at Rs.100 per day and awarded a compensation of Rs. 4,05,900/-.

Learned counsel for the appellants challenged the award mainly on account of non-grant of proper amount for the loss



of estate, funeral expenses, loss of consortium. It was stated that only a sum of Rs.9,500/- against all these heads has been given. He also stated that the income of the deceased was not properly assessed.

Having heard learned counsel for the parties and on going through the materials that came on record, this Court finds that the accident taken place in the year 2008 and based on the evidence, the compensation has been assessed. There is no error in assessing the income of the deceased, multipliers and various other factors. However, loss of estate, funeral expenses and loss of consortium have been granted on the lower side and if the principles of law laid down in various cases with regard to award on these counts are taken note of, the applicants would be entitled to a further compensation of Rs.2,00,000/- (Rupees two lacs) together on all the aforesaid heads and, in my considered view, the interest of justice would be met in case the compensation is enhanced to a total sum of Rs.2,00,000/-.

Accordingly, the compensation awarded, i.e. Rs.4,05,900/- is enhanced by a further sum of Rs.2,00,000/- bringing total compensation of Rs.6,05,900/-. The amount of Rs.50,000/- already paid as an interim award be deducted and total compensation after difference would now come to Rs.5,55,900/-



(Rupees Five lacs, fifty five thousand and nine hundred) along with interest as awarded by the Tribunal at the rate of 9% be also paid on the enhanced amount. The Insurance Company shall deposit the said amount within 60 days with the tribunal.

(Rajendra Menon, CJ)

Sunil/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	10.07.2017
Transmission Date	

