

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Miscellaneous Appeal No.616 of 2014**

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1. Bhola Bhagat, S/o Late Danpat Bhagat.  
2. Hira Bhagat, S/o Bhola Bhagat.  
3. Punam Kumari, D/o Bhola Bhagat.  
4. Raja Bhagat, S/o Bhola Bhagat.  
5. Sona Kumari, D/o Bhola Bhagat, 3 to 5 under guardianship of his father  
appellant no. 1, r/o vill Baligaon P.S. Baheri Dist Darbhanga at present c/o J Ram,  
near Krishna Cinema Hall Akharaghat Road Sikandarpur Muzaffarpur  
.... .... Appellants.

Versus

1. Tejkant Singh, S/o A.P. Singh (owner) Jaiswal Compound Kalambagh Road  
District Muzaffarpur.  
2. The Divisional Manager National Insurance Co. Ltd. through Divisional  
Manager Muzaffarpur P.N.T. Colony Chowk Mithanpura Muzaffarpur.  
.... .... Respondents.

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**Appearance :**

For the Appellant/s : Mr. Dhannjay Kumar No. 2, Adv.  
For the Respondent/s : Mr. Ashok Priyadarshi, Adv.

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**CORAM: HONOURABLE MR. JUSTICE PRAKASH CHANDRA JAISWAL**  
**ORAL JUDGMENT**

**Date: 08-12-2017**

Heard learned counsel for the appellants and learned  
counsel for the respondent no.2 on this miscellaneous appeal.

This miscellaneous appeal has been preferred against  
the judgment dated 23.07.2014 and award dated 12.08.2014 passed  
by the 6<sup>th</sup> Additional District Judge-cum-M.V.A.C.T., Muzaffarpur  
in Claim Case No.176 of 2009, whereby the learned Tribunal  
allowing the claim case directed the respondent-National Insurance  
Company Limited to pay residue compensation of Rs.4,99,500/-  
along with interest at the rate of 6% per annum from the date of  
institution of the case to the claimants.

The factual matrix of the case is that claimants filed



Claim Case No.176 of 2009 under Section 166 of M.V. Act for awarding compensation on account of death of their wife and mother respectively in the motor vehicle accident with the case in succinct that on 10.05.2009 at around 9:00 AM the deceased Shobha Devi along with her husband Bhola Bhagat was proceeding to Laheriasarai by motorcycle and when they arrived at Sirua More, they halted the motorcycle on the kachcha flank of the road. In the meantime, a commander jeep bearing registration no. JH-11C-6415 coming rashly and negligently from opposite side dashed the motorcycle due to which Shobha Devi died on the spot. Regarding the said accident, Baheri P.S. Case No.89 of 2009 was instituted. The deceased was a teacher in a Upgraded Middle School and was earning Rs.4,000/- per month from said vocation. She was aged about 34 years at the time of accident.

Opposite parties put their appearance in the case and filed their separate written statement. Claimants adduced ocular and documentary evidence in buttress of their case.

After hearing the parties and perusing the record, the learned Tribunal passed the aforesaid judgment and award as detailed in earlier paragraph.

Being aggrieved and dissatisfied with the aforesaid judgment and award, the appellants have preferred this appeal.



It is submitted by learned counsel for the appellants that as the deceased was a permanent government employee, hence in view of the decision of the Hon'ble Apex Court in **National Insurance Company Ltd. Vs. Pranay Sethi and Ors** reported in **2017 (4) PLJR 261 (SC)**, future prospect ought to have been given on the income of the deceased.

Learned counsel for the respondent-Insurance Company conceded to pass the order in view of the aforesaid judgment of the Hon'ble Apex Court. But, he has submitted that as the claimant no.1 happens to be the husband of the deceased, he is not entitled to get any compensation on account of the death of the deceased.

From perusal of record, it appears that the deceased was a teacher in a Upgraded Middle School and was drawing salary of Rs.4000/- per month i.e. Rs. 48,000/- per annum from the said vocation. The record further indicates that the learned Tribunal has assessed the age of deceased as 40 years on the basis of postmortem report filed by the appellants. Hence, considering the aforesaid vocation of the deceased and her age and in view of the verdict of Hon'ble Apex Court given in **National Insurance Company Ltd. Vs. Pranay Sethi and Ors.** 30% of the aforesaid



salary i.e. Rs. 1200/- per month i.e. Rs. 14,400/- per annum is awarded as future prospect. On addition of the aforesaid future prospect, total amount of income comes to the tune of Rs.62,400/- per annum. From perusal of the record, it appears that the deceased has died leaving behind four legal representatives and dependents who happens to be her daughters and sons, hence  $\frac{1}{4}^{\text{th}}$  of the aforesaid income i.e. Rs. 15,600/- is deducted as personal expense of the deceased which she would have made had she been alive. On the aforesaid deduction, the loss of dependency comes to Rs.46,800/- per annum. As the deceased was aged about 40 years at the time of death, the multiplier of 15 is adopted to work out the amount of compensation. On applying the aforesaid multiplier, the amount of compensation comes to the tune of Rs. Rs.7,02000/- per annum. Besides, the aforesaid amount, I think it appropriate to award Rs.70,000/- towards other conventional heads. On addition of aforesaid heads of compensation, the total amount of compensation comes to the tune of Rs.7,72,000/-. Claimants would also be entitled to get interest on the aforesaid amount of compensation at the rate of 6% per annum from the date of filing of the claim case till its realization. The respondent-no. 2 National Insurance Company Ltd. is directed to pay the aforesaid amount of compensation and interest thereon to the appellant nos. 2 to 4



deducting the amount of compensation already paid by it under Section 140 M.V. Act within two months from the date of receipt/production of a copy of this order.

As the appellant no. 1 happens to be husband of the deceased, he does not happen to be her dependant and is not entitled to get any compensation.

From perusal of record it appears that presently appellant no. 5 (Sona Kumari) is minor, hence the appellant no.1 who happens to be father of said minor is directed to deposit her share in the aforesaid amount of compensation and interest thereon in the name of the aforesaid minor in some Nationalized Bank of India having branch in the local area of the resident of the appellants in some fix deposit scheme renewable after every five years till attaining majority by the said minor. Accordingly, this appeal is disposed of with the aforesaid modification in the impugned judgment and award passed by the learned Tribunal.

**(Prakash Chandra Jaiswal, J.)**

Trivedi/-

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