

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.510 of 2014

- =====
1. Meena Devi, widow of Late Wakil Mandal
 2. Deepak Mandal (8 years) minor son of Late Wakil Mandal
 3. Ravi Shankar(5 years) minor son of Late Wakil Mandal
 4. Juli Kumari (2 years) minor daughter of Late Wakil Mandal
- Serial No. 2 to 4 are minor sons and daughter of Late Wakil Mandal under the guardianship of their mother and natural guardian.
All are resident of Village-Olapur, P.S.-Piprainty, District-Bhagalpur

.... Appellant/s

Versus

1. Raj Kumar Tekriwal, son of Nand Kishore Tekriwal, resident of Choudhary Tola Kahalgaon, P.S.-Kahalgaon, District-Bhagalpur, (Owner of Truck No. BR-11D/1192)(Opposite Party No. 1)
2. Ramjee Mandal, son of Chandar Mandal, resident of Parasbanna, P.S.-Piprainty, District-Bhagalpur (Driver of Truck No. 11D/1192) (O.P. No. 2)
3. Branch Manager, National Insurance Company Limited at Main Road, Kahalgaon, P.S.-Kahalgaon, District-Bhagalpur (Opposite Party No. 3)
4. Divisional Manager, National Insurance Company Limited, at Summit Mandal Complex, Jail Road, Tilkamanjhi, P.S.-Tilkamanjhi(Kotwali) District-Bhagalpur(Opposite Party No. 4)

.... Respondent/s

=====

Appearance :

For the Appellant/s : Mr. Mukesh Prasad Singh, Adv
For the Respondent/s : Mr. Sanjay Kumar, Adv
Mr. Gyanendra Kumar Singh, Adv

=====

CORAM: HONOURABLE THE CHIEF JUSTICE
ORAL JUDGMENT

Date: 20-07-2017

This is an appeal for enhancement of compensation by the widow and three minor children of Late Wakil Mandal who died in a road accident which occurred on 30th July, 2009 at 5:00 A.M in the morning in the national highway 80 on Munger-Bariyarpur road when the truck in question dashed with another vehicle and Wakil Mandal succumbed to the injury in question. Wakil Mandal was working as a Khalasi in a motor vehicle and the evidence has come on



record shows that he was earning Rs. 4500/- per month and Rs. 50/- per day as daily allowance. Even though learned Tribunal assessed the earning at Rs. 4500/- per month but disallowed daily allowance of Rs. 50/- per day and therefore, on this count, the enhancement is sought for and in support thereof, a judgment of the Supreme Court in the case of *Mohd. Ameeruddin and another versus United India Insurance Co. Ltd. and another* 2011 ACJ 13 has been relied upon to say that the daily bhatta has to be paid towards income. That apart, the family of the deceased consisted of the wife and three minor children and in view of the case laid down in the case of *Smt. Sarla Verma and Ors versus Delhi Transport Corporation and Anr* AIR 2009 SC 3104, the dependency has to be calculated by deducting $\frac{1}{4}$ towards self expenses. Finally, relying on judgment passed in the case of *Rajesh and Others versus Rajbir Singh and Others* 2013 ACJ 1403, it is stated that towards loss of love and affection and loss of consortium the notional amount has been granted, whereas, it should be granted at the rate of Rs. 1,00,000/-(one lac) each to the claimants.

Even though, learned counsel for the Insurance Company refuted the aforesaid, but keeping in view the facts and circumstances of the case and the principles of law as detailed in the case referred hereinabove, the appeal has to be allowed on the grounds canvassed before me.



Accordingly, taking not of the law laid down in the case of *Mohd. Ameeruddin (supra)*, it is directed that the claimants would be entitled to add a sum of Rs. 50/- per day as daily bhatta which was granted to the deceased. That apart, they would be entitled to a sum of Rs. 2,00,000/-(two lacs) towards love and affection and consortium and in view of the law laid down in the case of *Smt Sarla Verma(supra)*, the dependency has to be calculated by deducting $\frac{1}{4}$ towards self expenses. The Tribunal is directed to calculate the amount accordingly and difference of compensation be deposited by the Insurance Company within a period of sixty days. The enhanced amount of compensation shall carry interest as already directed by the Tribunal.

Accordingly, the application stands allowed and disposed of.

(Rajendra Menon, CJ)

Shageer/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	27/07/2017
Transmission Date	NA

