IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.650 of 2014

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The Branch Manager, Oriental Insurance Company Ltd., Sakpul, PO - Lalbagh, P.S. Town, District - Darbhanga.

.... Appellant/s

Versus

1. Sakunti Devi Wife of Late Shiya Sharan Paswan
2. Sharban Paswan S/o Late Shiya Sharan Paswan
3. Rubi Kumari D/o Late Shiya Sharan Paswan
4. Rahul Paswan S/o Late Shiya Sharan Paswan
5. Ganesh Paswan S/o Late Shiya Sharan Paswan
6. Guriya Kumari D/o Late Shiya Sharan Paswan
7. Rajan Paswan S/o Late Shiya Sharan Paswan All resident of village - Haripatti, PO - Laheriyasarai, PS - Fekla, Op - Bahaurpur, District - Darbhanga.
8. Raman Yadav Son of Debu Yadav resident of Village - Premjibar, PO - Laheriyasarai, P.S. - Fekla, OP - Bahadurpur, District - Darbhanga.
9. Raman Yadav Son of Dabu Yadav resident of Village - Premjibar, PO - Laheriyasarai, P.S. - Fekla, OP - Bahadurpur, District - Darbhanga.

.... Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Bimlesh Kumar Jha, Adv
For the Respondent/s	:	Mr. Baidyanath Thakur, Adv
		Mr. Shankar Kumar Thakur, Adv
		Mr. Binod Kumar, Adv

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CORAM: HONOURABLE THE CHIEF JUSTICE

ORAL JUDGMENT

Date: 20-07-2017

This is an appeal by the Insurance Company challenging the award passed by the Adhoc Additional District Judge-IV-cum-Accident Claim Tribunal, Darbhanga in Claim Case No. 98 of 2013.

The claimants are the wife and minor children of Late Shiya Sharan Paswan who died in a motor accident that took place in the morning of 21st January, 2013. It was stated that deceased Shiya Sharan Paswan was working as a mason and was earning about Rs. 4500/- per month and based on various assertions made, the compensation was claimed. After assessing the daily earning of the deceased at Rs. 200/- per day and based on various principles laid down by the Supreme Court in the case of *Smt. Sarla Verma and Ors versus Delhi Transport Corporation and Anr AIR 2009 SC 3104*, the compensation has been assessed at Rs. 8,39,000/- and the same was directed to be paid along with interest at the rate of 8 per cent.

Primarily, on three grounds this appeal has been filed. The first ground is that the wife of the deceased who entered the witness box as AW 1 has stated that earning of her husband was Rs. 4500/- per months but ignoring the same, the Tribunal has assessed the income of the deceased as Rs. 6000/- per month. That apart, in the written statement, an objection was raised by the Insurance Company to say that the tempo in question bearing Registration No. BR-7P-6234 was plying without proper and valid permit under the Motor Vehicles Act and therefore, the Insurance Company could not be held liable. That apart, it was trying to indicate that the interest at the rate of 8 per cent as awarded by the Tribunal is on the higher side.

Having heard learned counsel for the parties, I find no ground to make any indulgence into the matter. Even though in a general manner, A.W. 1 has stated that her husband was earning Rs. 4500/- per months but she also stated that he was working as Mason earning Rs. 4500/- per month. However, after considering various aspects of the matter, the Tribunal has assessed the earning of the deceased as Rs. 200/- per day, I see no perversity or illegality in the same warranting interference. The findings of the earning of the deceased has been assessed by the learned Tribunal after considering the evidence came on record and I find no reason to make any indulgence on this count.

As far as the contention of the Insurance Company that vehicle was plying on road without proper permit is concerned, except for raising the ground by the Insurance Company, no cogent material was placed by the Insurance Company to the Tribunal to substantiate the aforesaid contention and, therefore, on this count also, no interference is called for. The interest of 8 per cent awarded by the Tribunal is also in accordance with the requirement of law and therefore, finding no merit in the appeal, the same stands dismissed.

The amount be paid to the claimants within a period of sixty days. The amount of Rs. 25,000/- deposited by the Insurance Company be sent back to the Tribunal.

(Rajendra Menon, CJ)

Shageer/-

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