

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Appeal No.251 of 2014

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1. Pinki Devi W/O Late Sudhir Kumar @ Sudhir Kumar Chandrabanshi.
 2. Sabita Devi W/O Late Ranjeet Singh
 3. Sagar Kumar S/O Late Sudhir Kumar @ Sudhir Kumar Chandrabanshi.
 4. Shaniya Kumari D/O Late Sudhir Kumar @ Sudhir Kumar Chandrabanshi All resident of Village - Kamalpur, P.O. - Manpur, P.S. - Mofasil, District - Gaya. Appellants no 3 and 4 are minor son and daughter of Appellant no. 1, she in natural guardian of appellant no. 3 and 4.

.... Appellant/s

Versus

1. The Oriental Insurance Company Ltd., through its Divisional Manager, at Rai Kashi Nath More, Gaya, District - Gaya.
2. Chandra Bhushan Prasad Sharma S/O T.N. Sharma resident at & P.O. - Rajgir, District - Nalanda.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Ravindra Kumar Sinha, Advocate

For the Respondent/s : Mr. Arun Kumar Srivastava, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

ORAL JUDGMENT

Date: 13-07-2017

Seeking enhancement of the award of compensation granted by the Addl. Motor Accident Claim Tribunal V(Ad hoc), Gaya, this appeal has been filed. The claimants are the parents, wife and two minor children, one son and one daughter, of the deceased late Sudhir Kumar @ Sudhir Kumar Chandrabanshi who died in the accident in question at the age of 25 years and it was said that he was working as a skilled labourer. However, on account of the fact that there was no documentary evidence, the learned Tribunal has assessed the annual income at Rs.15,000/-. The statement of the wife



of the deceased goes to show that he was a skilled labourer and even if there was no evidence to show that he was a skilled labourer, at least the minimum wages payable at the rate prevailing at that time should have been awarded to the claimant and if that is permitted, his annual income should have been Rs.36,000/-. To that extent there is an error in the award and needs correction.

In view of the law laid down in the case of Rajesh And Ors. Vs. Rajbir Singh And Ors., (2013) 9 SCC 54, for loss of consortium, the family is entitled to a sum of Rs.1,00,000/- and as the two claimants are minor children for loss of care and guidance they are entitled to a further sum of Rs.1,00,000/-. Accordingly, the award is enhanced in the following terms:

The compensation should be calculated by treating the annual income of the deceased to be Rs.36,000/- and after including the dependency as has been done by the Tribunal, the amount of compensation be re-calculated to which a sum of Rs.1,00,000/- towards loss of consortium and Rs.1,00,000/- towards loss of care and guidance for the minor children be added and the entire compensation re-assessed. The amount re-assessed after deducting the amount already paid should be deposited by the Insurance Company with the learned Tribunal within 60 days for payment to the claimants along with interest as awarded.



Office to return the records and the statutory amount deposited by the Insurance Company to the court below forthwith.

(Rajendra Menon, CJ)

K.C.jha/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	21.7.2017
Transmission Date	N/A

