

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Appeal No.569 of 2014

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1. Sonu Kumar (minor) S/o - Late Nagendra Singh, under the legal and natural Guardianship of his mother namely Ram Pukari Devi, wife of Late Nagendra Singh.

2. Ram Pukari Devi, Wife of Late Nagendra Singh, Both resident of Village - Raghampur, P.S. - Chiraiya, Distt. - East Champaran

.... Appellant/s

Versus

1. The National Insurance Company Limited, Through its Branch Manager (Insurer), Branch Office Main Raod, Motihari, P.S. -Motihari Town, Distt. - East Champaran.

2. Vijay Kumar Singh, Son of Chandeshwar Singh (Owner of Vehicle)

3. Ram Pravesh Singh, Son of Chandeshwar Singh, (Driver of the Vehicle), Both Resident of Village - Harnahi, P.S. & Distt. - Sheohar.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Madhurendra Kumar, Advocate

For Respondent Nos.1 : Mr. Ashok Kumar, Advocate

Mr. R.C.L. Das, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

ORAL JUDGMENT

Date: 13-07-2017

This is a case for enhancement of compensation by a minor Appellant No. 1 through his mother Appellant No. 2. Appellant No. 1, student of a primary school, aged about 5 years, while coming back from school, suffered the accident in question and suffered 100



per cent disability. Accordingly, the claim for compensation at Rs. 9,05,000/- was made and after assessing the income of the deceased at notional compensation of Rs. 2,25,000/- has been awarded to which a further sum of Rs. 75,000/- towards medical expenses and a sum of Rs. 25,000/- towards hardship to life has been awarded and a total compensation of Rs. 3,25,000/- is assessed to be paid by the Insurance Company along with interest at the rate of 9 per cent per annum from the date of filing of the application till realization.

Learned counsel for the appellant placing reliance on a judgment of the Supreme Court in the case of **V. Mekala Vs. M. Malathi and Another- 2014 (3) T.A.C. 5 (S.C.)** argued that the income of the deceased should have been assessed at least at Rs. 3,000/- per month being a minimum income that would have been earned by an unskilled labourers at that point of time and that apart as the medical expense was proved by producing bills Exhibit-7 to the extent of Rs. 1,15,000/-, the entire amount on this count should have been awarded. That apart, it is stated that for hardship to life and other suffering only a sum of Rs. 25,000/- is awarded whereas the Appellant No. 1 is shown to be a person of unsound mind and is totally dependent on his mother Appellant No. 2. Learned counsel argues that taking note of all these factors, amount of compensation being on the lower side should be enhanced.



Even though learned counsel appearing for the Insurance Company argues that the compensation awarded is proper and no further enhancement is called for, I am of the considered view that the compensation awarded is on the lower side and the same requires enhancement.

Having heard learned counsel for the parties, I am of the considered view that the compensation awarded in the peculiar facts and circumstances of this case where a small child has suffered 100 per cent disability is very much on the lower side and I enhance the compensation as under:-

The loss of earning of the deceased should be assessed by treating his monthly income to be Rs. 3,000/- per month and the annual income Rs. 36,000/- and applying the multiplier of 15 the loss of earning would be Rs. 5,40,000/-, to this a sum of Rs. 1,15,000/- towards medical expenses as is evident from the documents available on record has to be added and for hardship to life and for loss of future prospect, a further sum of Rs. 2,50,000/- should be awarded.

Keeping in view the aforesaid, after the amount of compensation is enhanced by Rs. 5,40,000/- the amount be paid along with interest at the rate of 9 per cent per annum from the date of filing of the application till payment. Insurance Company to make the payment within 60 days from the date of receipt of a certified copy of



this order.

With the aforesaid, the appeal stands allowed.

(Rajendra Menon, CJ)

P.K.P.

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	18.07.2017
Transmission Date	

