

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Appeal No.250 of 2014

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1. July Kumari, W/O Late Guddu Kumar
 2. Gaurav Kumar Verma, S/O Late Guddu Kumar
Both residents of Mohalla - Kharkhura, P.O. Baragi, P.S. - Delha, District - Gaya. Appellant no. 2 is minor, living under his natural and legal guardian of his mother.

.... Applicants-Appellant/s

Versus

1. The Oriental Insurance Company Ltd., through its Divisional Manager, resident of Rai Kashi Nath More Gaya.
2. Md. Asaul, S/O of Md. Abbas Asfaque, Cloth Store, H.S. Road Jaigaon District - Jalapaiguri (W.B.).

.... Opposite Parties- Respondent/s

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Appearance :

For the Appellants : Mr. Ravindra Kumar Sinha, Advocate

For the Respondent No.1 : Mr. Ashok Priyadarshi, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

ORAL JUDGMENT

Date: 20-07-2017

This is an application for enhancement of compensation by the claimants, who are the wife and the minor child of deceased Guddu Kumar, who died in a motor accident that took place on 07.05.2006. Guddu Kumar is said to have been employed in a Maruti Van bearing No. JH 11C 2243 which collided with a Tata Sumo on the fateful day and Guddu Kumar succumbed to injuries. Claiming a compensation of Rs.1,00,000/- on account of death of Guddu Kumar, the application in question was filed.

It was the case of the claimants that Guddu Kumar was working as a driver, was earning Rs.4500/- per month, he was aged 25 years and on the basis of the aforesaid, the claim was made. Based on the



evidence and materials that came on record, the learned Tribunal assessed daily earning of Guddu Kumar at Rs.77/- per day being the wages paid to an unskilled classified as a driver vide Notification issued by the Labour Resources Department, Government of Bihar on 31.07.2006 under the Minimum Wages Act. That apart, based on the documentary evidence that came on record, namely Ext-3, the medical reports, the age of the deceased was assessed at 35 years and after granting a sum of Rs.9500/- on various other heads, like loss of consortium, loss of estate, funeral expenses etc., the total compensation of Rs.2,15,756/- has been awarded along with interest at the rate of 6% per annum with effect from 03.01.2012.

As far as award of interest is concerned, even though the accident took place in the year 2006 while considering the question of grant of any other relief or reliefs and discussing issue No.VI, it has been found by the Tribunal that after filing of the application in the year 2006, the Court fees was paid and all defects removed by the applicants after three years, i.e. on 18.03.2009 and even after the issues were framed on 15.03.2011, the evidence was led by the claimants on 03.01.2012 and with effect from the date they entered the witness box, the interest has been given. Seeking enhancement of compensation and contending that the amount of compensation awarded is on lower side, this appeal has been filed.



Having heard learned counsel for the appellants and learned counsel for the Insurance Company and from the statement of A.W.1 and A.W.2, it is seen that they have stated that Guddu Kumar was earning a sum of Rs.4,000/-- 4,500/- per month, he was a driver in a Maruti Van in private employment and it can be safely construed that he would be earning Rs.100/- per day by working in the aforesaid establishment. That being so, the amount of earning of the deceased has to be increased from Rs. 77/- to Rs.100/- per day. That apart, as the claimants are the wife and minor child of the deceased, they would be entitled to a sum of Rs.50,000/- towards loss of love and affection and consortium.

As far as payment of interest is concerned, finding there to be lapses on the part of the appellants themselves in prosecuting the matter, I see no error in the order passed by the learned Tribunal in awarding interest only from 03.01.2012, i.e. the day on which the evidence was led by the claimants.

Keeping in view the aforesaid, the appeal is allowed in part. The Tribunal is directed to calculate the amount after assessing the income of the deceased at Rs.100/- per day and to that adding a sum of Rs.50,000/- towards love and affection and consortium and the said amount after deduction of the payment already made by the Insurance Company will be paid to the claimants within a period of 60 days from the date of receipt of a certified copy of the order. The enhanced amount



shall carry interest as directed by the Tribunal. Records be transmitted to the Tribunal immediately.

(Rajendra Menon, CJ)

Sunil/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	21.07.2017
Transmission Date	

