

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Miscellaneous Appeal No.109 of 2015**

- =====
1. Priyanka Devi wife of Late Om Prakash kumar
  2. Riya Kumari Minor Daughter of late Om Prakash Kumar
  3. Akash kumar minor son of late Om Prakash Kumar , minor Son and daughter are under the guardianship of their mother Priyanka Devi
  4. Rajdhni Devi W/o Ram Naresh Singh
  5. Ram Naresh Singh S/o Late Ram Padarath Singh All resident of Village Nigri , P.O. and P.s. Dobhi, District- Gaya

.... .... Appellant/s

Versus

1. The Oriental Insurance Co.ltd. , through its Divisional Manager .R. J. Place ,Rai Kashi Nath More, Gaya. P.O. and P.s Gaya, District Gaya.
2. Badri Prasad Son of Sri Moti Lal resident of Mohalla Rampur , P.O. and P.s Rampur, district Gaya
3. Md. Syed Nasim Akhtar s/o Syed Abdul Hafeej, resident of 127, Hemzapur, P.O. Sherghati, P.s Amas, District Gaya.

.... .... Respondent/s

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**Appearance :**

For the Appellant/s : Mr. Shailendra Kumar, Adv  
For the Insurance Company : Mr. Randhir Singh, Adv

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**CORAM: HONOURABLE THE CHIEF JUSTICE**  
**ORAL JUDGMENT**

**Date: 06-07-2017**

**Re :- Interlocutory Application No. 3347 of 2015**

The delay of 73 days in filing of this appeal under  
is condoned.

**M.A. No. 109 of 2015**

This is claimant's appeal for enhancement of  
compensation awarded by the Additional District & Sessions Judge,  
IIIrd-cum-Motor Vehicle Accident Claim Tribunal, Gaya in Claim  
Case No. 197 of 2011/64 of 2010. The deceased Om Prakash Kumar



died in a motor accident that took place on 20<sup>th</sup> of September, 2009 and the claimant's wife, minor children and widowed mother of the deceased claimed compensation. It was stated that the deceased was working as an employee in Delco Construction Private Limited as a senior supervisor and on the basis of the evidence and materials that came on record, the total compensation of Rs. 16,87,500/- has been awarded. However, learned counsel for the appellants argued that learned Tribunal has only granted a sum of Rs. 9500/- towards loss of estate, loss of consortium and funeral expenses, whereas this should be at least Rs. 1,00,000/-. It has further been submitted that 1/3 has been deducted towards self expenses but looking to the size of the family, i.e. wife, four minor children and widowed mother, at least 1/4 should have only be deducted towards self expenses. I find substance in the aforesaid contention of the counsel for the claimant and there is no reason as to why the compensation should not be enhanced by allowing the aforesaid claim to be deducted 1/4 towards self expenses.

Keeping in view the aforesaid, it is directed that taking the actual dependency to be Rs. 1,44,000/-, after deducting 1/4 towards self expenses, the actual dependency is assessed at Rs. 1,08,000/- per year and applying the multiplier of 18, the total compensation comes to Rs. 19,44,000/-. To which, after adding a further sum of Rs. 1,00,000/- towards other heads like loss of



consortium, loss of estate and funeral expenses, the compensation would come to Rs. 20,44,000/-.

Accordingly, this appeal is allowed and a compensation is enhanced from Rs. 16,87,500/- to Rs. 20,44,000/- with interest at the rate of Rs. 9% per annum on the enhanced amount with effect from the date as directed by the Tribunal. The enhanced amount of compensation after deducting Rs.50,000/- as interim compensation already paid to the applicants, shall be deposited by the Insurance Company within 60 days from the date of receipt of the records. The records shall be transmitted to the trial Court for necessary disposal.

**(Rajendra Menon, CJ)**

Shageer/-

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| AFR/NAFR          | NAFR       |
| CAV DATE          | NA         |
| Uploading Date    | 13/07/2017 |
| Transmission Date | NA         |

