

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.42 of 2016

1. Most. Revati Devi , Wife of Late Manoj Singh
 2. Kishan Kumar, Son of late Manoj Singh
 3. Prabhu Kumar, Son of Late Manoj Singh
 4. Kazal Kumari Daughter of Late Manoj Singh
- Appellant nos. 2, 3 and 4 are minor and they are represented by their Mother Namely Most. Revati Devi appellant No. 1.
All are residents of Village- Mahila Police Station - Azamnagar, District Katihar.

... .. Appellants

Versus

1. Bhupati Singh, Son of Late Prahlad Singh
 2. Satrugan Singh Son of Bhupati Singh
- Both are residents of Village- Mahila, Police Station- Azamnagar, District Katihar.
3. The Oriental Insurance Co. Ltd, Katihar.

... .. Respondents

Appearance :

For the Appellant/s : Mr. Md. Rahmatullah
For the Respondent/s : Mr. Ashok Priyadarshi

CORAM: HONOURABLE MR. JUSTICE PRAKASH CHANDRA JAISWAL

ORAL JUDGMENT

Date : 28-11-2018

Re.: I.A. No. 440 of 2016

Heard learned counsel for the appellants and
learned counsel for the respondent no. 3 on the aforesaid I.A.

Appellants have filed the aforesaid interlocutory
application for condonation of delay of 100 days in preferring
this appeal.

Finding the ground taken by the appellants in the
aforesaid I.A. for condonation of delay made in preferring this
appeal sufficient and in the interest of justice, aforesaid delay
in preferring this appeal is hereby condoned and aforesaid I.A.
is accordingly allowed.



Re.: M.A. No. 42 of 2016

Heard learned counsel for the appellants and learned counsel for the respondent no.3 on this miscellaneous appeal.

2. This miscellaneous appeal has been preferred against the judgment dated 05.05.2015 and award dated 02.07.2015 passed by the Additional District Judge-II cum Motor Vehicle Accident Claim Tribunal, Katihar in M.V. Claim Case No. 53 of 2010 whereby the learned Tribunal allowing the claim petition directed the opposite party no.3-Oriental Insurance Company Limited to pay the compensation to the tune of Rs.2,58,489/- along with the interest at the rate of 6% per annum from the date of institution of the claim petition till its realization to the claimants.

3. Factual matrix of the case is that claimants filed M.V. Claim Case No. 53 of 2010 under Section 166 of the M.V. Act for awarding compensation to the tune of Rs. 6,00,000/- along with the interest at the rate of 12% per annum on account of death of Manoj Kumar Singh in the motor vehicle accident with the case in succinct that on 12.12.2009 at about 02:30 PM, said Manoj Singh and others were travelling upon engine of a tractor bearing registration no. BR-39-D-0756 laden with fire wood. When the said tractor arrived near the Pokhar at Narainpur, it got unbalanced and turned turtle and



plunged into ditch inflicting serious injury to said Manoj Singh. He was rushed to Primary Health Centre, Salmari to accord him medical aid, but he succumbed to his injury on the way to the hospital. Regarding the aforesaid accident, Azamnagar P.S. Case No. 218 of 2009 was registered under Sections 279 and 304 of the Indian Penal Code. The aforesaid accident took place due to rash and negligent driving of the offending vehicle by its driver at the relevant time of accident. The deceased was agriculturist and used to earn Rs. 5000/- per month out of the aforesaid vocation. He was aged about 30 years at the time of accident.

4. Opposite parties put their appearance in the case and filed their written statements. Claimants adduced ocular as well as documentary evidence in buttress of their case.

5. After hearing the parties and perusing the record, the learned Tribunal passed the aforesaid judgment and award as detailed in the earlier paragraph.

6. Being aggrieved and dissatisfied with the impugned judgment and award, the claimants have preferred this miscellaneous appeal.

7. During the course of argument, it is only submitted by learned counsel for the appellants that the amount of compensation awarded under other traditional heads to the



tune of Rs. 12000/- is very paltry and meager which ought to have been awarded as Rs.70000/- as per the verdict of the Hon'ble Apex Court rendered in **National Insurance Company Ltd. Vs. Pranay Sethi and Ors.** reported in **2017 (4) 261 PLJR.**

8. Learned counsel for respondent no.3 conceded the aforesaid argument in view of the verdict of the Hon'ble Apex Court rendered in National Insurance Company Ltd. Vs. Pranay Sethi (Supra).

9. In the facts and circumstances, respondent no.3-Oriental Insurance company Limited is directed to make payment of the additional amount of compensation under other traditional heads to the tune of Rs. 58000/- to the claimants in view of the aforesaid verdict of the Hon'ble Apex Court within one month from the date of this judgment.

10. Accordingly, this appeal is disposed of with the aforesaid modification in the impugned judgment and award.

(Prakash Chandra Jaiswal, J)

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AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	01.12.2018
Transmission Date	01.12.2018

