

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.798 of 2012

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Bajaj Allianz General Insurance Company Limited through the Legal Officer
and Constituted Attorney Kumar Kislay Legal Officer, Bajaj Allianz General
Insurance Company Limited, N/A 7 Irrigation Department, Co-operative
Chitragupta Nagar, Patna-20

... .. Appellant

Versus

1. Parmeshwari Devi, W/o Late Ramchandra Yadav alias Ramchandra Prasad
Yadav, resident of village – Bhualchak, P.S.-Warsaliganj, District – Nawada.
2. Pankaj Kumar.
3. Shimpu Kumar
4. Arvind Kumar
5. Rajiv Ranjan
6. Manoj Kumar
7. Manish Kumar

Respondent nos. 2 to 7 are sons of Late Ramchandra Yadav alias Ramchandra
Prasad Yadav

All are residents of village – Bhualchak, P.S.-Warsaliganj, District – Nawada.

... .. Respondents

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Appearance :

For the Appellant/s	:	Mr. Durgesh Kumar Singh Mr. Rajesh Chandra Narayan
For the Respondent/s	:	Mr. Manish Kumar Mr. Sanjay Parasmani Mr. Manoj Kumar

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**CORAM: HONOURABLE MR. JUSTICE PRAKASH CHANDRA
JAISWAL**

ORAL JUDGMENT

Date : 04-10-2018

Re.: I.A. No. 6044 of 2016

Appellant has filed the aforesaid interlocutory
application for condonation of delay of 01 year 06 months and
10 days in preferring this appeal with the case that the appellant
has filed the aforesaid appeal against the judgment and award
dated 03.05.2012 and 08.01.2013 respectively on 09.11.2012 as
no award was made available to him by that time. Now the
appellant has filed the aforesaid award after procuring the copy



thereof on 18.12.2015. There is no deliberate and intentional laches on the part of the appellant.

Respondent nos. 1 to 7 did not file any rejoinder against the aforesaid I.A.

It is settled principle of the law that justice should be done after hearing the parties and injustice should not be done merely on technicality by shutting down the opportunity of hearing to the parties.

In the facts and circumstances of the case and in the interest of justice, aforesaid delay in preferring the appeal is hereby condoned and the aforesaid I.A. is accordingly allowed.

Re. M.A. No. 798 of 2012

Heard learned counsel for the appellant and learned counsel for the respondents on this miscellaneous appeal.

2. This miscellaneous appeal has been preferred against the judgment dated 03.05.2012 and award dated 08.01.2013 passed by the Additional District Judge/F.T.C.-III cum Motor Vehicle Accident Claim Tribunal, Nawada, in Claim Case No. 73 of 2009 whereby the learned Tribunal allowing the claim petition directed the appellant Bajaj Allianz Insurance Company Limited to pay compensation to the tune of



Rs. 24,38,584/- along with the interest at the rate of 8% per annum from the date of filing claim petition to the claimants.

3. Factual matrix of the case is that claimants filed Claim Case No. 73 of 2009 under Section 166 of the M.V. Act for awarding compensation on account of death of Ramchandra Prasad Yadav in Motor Vehicle Accident with the case in succinct that on 06.10.2009 at 08:30 AM, the deceased Ramchandra Prasad Yadav was going to his school on bicycle and when he reached near north of Gopalpur Hanuman Temple, he was dashed by a tractor bearing registration no. BR-27-9091 and Trailer bearing registration no. BR-27-9092 being driven rashly and negligently by its driver resultantly he died on the spot. The deceased was 52 years old at the time of accident and was an assistant teacher in Rajkiya Madhya Vidyalaya, Chakbai, P.S. Warsaliganj and used to get salary of Rs. 27,393/- per month out of the aforesaid vocation.

4. Opposite parties put their appearance in the case and filed their separate 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, opposite party no.1-Bajaj Allianz General Insurance Company Limited has preferred the present miscellaneous appeal.

7. During the course of argument, learned counsel for the appellant has submitted that at present he is only assailing the rate of interest as awarded by the learned Tribunal. Learned Tribunal has awarded the interest at the rate of 8% on the awarded amount of compensation which is highly exorbitant and exaggerated and it should be 5%.

8. Learned counsel for the respondent nos. 1 to 7 did not counter aforesaid submission of the learned counsel for the appellant.

9. In the facts and circumstances of the case and on the consensus of the parties, appellant-Bajaj Allianz General Insurance Company Limited is directed to make payment of the interest at the rate of 5% per annum on the amount of compensation, as awarded by the learned Tribunal from the date of filing of the claim petition within two months from the date of this judgment to the claimants.

10. Accordingly, this appeal is disposed of with



the aforesaid modification in the impugned judgment and award regarding the rate of interest only.

11. Let the statutory amount deposited by the appellant be sent down to the learned Tribunal through cheque in the name of respondent no.1 Parmeshwari Devi for adjustment in the awarded amount of compensation.

(Prakash Chandra Jaiswal, J)

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AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	06.10.2018
Transmission Date	06.10.2018

