

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.653 of 2016

1. Ram Sevak Rai, S/o Ram Sawarup Rai,
2. Baidnath Prasad Yadav, S/o Ram Sevak Rai,
3. Shyam Prasad Yadav, S/o Ram Sevak Rai,
All resident of Village- Itawa, Tola Ahirauliya, P.O.- Itawa, P.S.- Pakridayal,
District- East Champaran.

... .. Appellant/s(claimants)

Versus

1. Sri Dhanilal Sah, S/o Jamuna Sah, resident of Village- Sundarpatti, P.S.-
Pakridayal, District- East Champaran. (opposite party no.1)..
respondent
2. Divisional Manager, Bajaj Allianz General Insurance Company Ltd.
Divisional Office 504 Mahabir Tower near Church Complex, 5th Floor,
Main Road, Ranchi Jharkand (opposite party no.2) .. respondent
3. Sri Rakesh Sah, S/o Ram Dayal Sah,
resident of Village- Majhauliya, P.S.- Pakridayal, District- East Champaran.
(opposite party no.3) ... respondent

Appearance :

For the Appellant/s : Mr.Mukesh Prasad Singh, Advocate
For the Respondent no.2 : Mr. Ashok Priyadarshi, Advocate

CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT

Date : 31-07-2019

Heard parties.

2. This appeal under Section 173 of M.V. Act, 1988 has been filed on behalf of the claimants/appellants for enhancement of compensation amount awarded by judgment and award dated 27.8.2015 passed by learned 3rd Additional District Judge -cum- MACT, East Champaran at Motihari passed in Claim Case No.22 of 2010 by which the claims tribunal has granted compensation of Rs.3,44,000/- to the claimants with interest @ 9 % from the date of claim application



till its payment.

3. Claimants who are father and brothers of deceased Saroj Kumar filed an application under Section 166 of M.V. Act for grant of compensation on account of death of Saroj Kumar in a motor accident on 15.02.2010 caused by rash and negligent driving by the driver of commander Jeep bearing registration No. BR 05P – 2546.

4. The claim tribunal has assessed the age of deceased to be 20 years and his annual income to be Rs.36,000/- and since deceased was unmarried as such, has deducted 50% of income towards his personal expenses and has applied multiplier of 18 and ascertained compensation amount as Rs.3,24,000/- and has further granted compensation under conventional heads as Rs.10,000/- for funeral expenses and Rs.10,000/- for loss of estate and quantified the total compensation amount to be Rs.3,44,000/- with interest @ 9% per annum from the date of filing of claim application till its payment.

5. It has been submitted on behalf of counsel for appellants that claimants are entitled for 40% future prospect as well as Rs.70,000/- under conventional heads in view of law laid down in *Sarla Verma and Ors vs. Delhi Transport*



Corporation and Others since reported in (2009) 6 SCC 121
and ***National Insurance Company Ltd. vs. Pranay Sethi &***
Ors since reported in (2017) 16 SCC 680.

6. Compensation amount of claimants are reassessed as following:-

Annual income	-Rs.36,000/-
Future prospect (40%)	-Rs.14,400/-
Total Income	-Rs.50,400/-
personal expenses (50%)	- Rs.25,200/-
Loss of dependency	- Rs.25,200/-
Multiplier (18)	- (25,200x18)=Rs.4,53,600/-
Funeral expenses	- Rs.15,000/-
Loss of estate	-Rs.15,000/-
Loss of filial consortium	- Rs.40,000/-
Total compensation	-Rs.5,23,600/- (rupees five

lacs twenty three thousand six hundred only)

7. Claimants are entitled for compensation amount of Rs.5,23,600/- (rupees five lacs twenty three thousand six hundred only) and award is modified to said extent.

8. Insurance Company is directed to pay the remaining compensation amount after deducting the compensation amount already paid from Rs.5,23,000/- and pay the remaining



compensation amount with interest @ 9% per annum from date of filing of claim application till its payment on remaining compensation amount within two months from date of receipt/production of copy of a order passed by this Court.

9. Miscellaneous appeal is disposed of.

10. Let the LCR be returned forthwith to the court concerned.

(S. Kumar, J)

Sanjay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	18.10.2019
Transmission Date	NA

