

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.213 of 2016

1. Punam Devi @ Punam Kuwar and Ors w/o late Ramashish Chaudhary
2. Rakesh Kumar Yadav
3. Rajesh Kumar Yadav
4. Ritesh Kumar Yadav All s/o late Ramashish Choudhary Permanent address - all r/o vill Badaka Gawa P.S. Mirganj Dist Gopalganj at present all c/o Surdeo Rai r/o Club road, P.S. Mitanpura Dist Muzaffarpur.

... .. Appellant/s

Versus

1. Parsuram Pandey and Anr s/o Bindeshari Pandey r/o vill Bighi Bairisal P.S. Mirganj Dist Gopalganj.
2. Oriental Insurance Co. Ltd. Divisional Office Aghoriya Bazar Muzaffarpur.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Dhannjay Kumar No 2, Adv
For the Respondent/s : Mr.Sanjay Singh, Adv

CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT

Date : 22-07-2019

Heard learned counsel for the parties.

This appeal has been filed under Section 173 of M.V. Act, 1988, by the Claimant-appellant for enhancement of compensation amount awarded by judgment dated 19.09.2015 and Award dated 03.10.2015 passed by learned ADJ-IX-cum-MACT, Muzaffarpur, in Claim Case No. 01 of 2009, by which learned Tribunal has granted compensation of Rs. 3,46,500/- with interest @ 6 per cent per annum from the date of claim application till its payment.

Claimants are widow and minor sons of deceased-Ramashish Choudhary who died on 14.07.2008 in a motor



accident caused by offending Bus bearing registration no. BR 28A 7002 which was being driven in a rash and negligent manner by the driver and deceased who was Cleaner got seriously injured when offending Bus overturned upon him and died on the spot. Deceased was aged 40 years and his monthly income was Rs. 3000/- and used to get Rs. 50/- as daily allowance. Claimants have claimed compensation of Rs. 3,80,000/- in their claim application.

Opposite party no. 1 is the owner of the offending vehicle and Opposite party no. 2 is the insurer of the offending vehicle who in its written statement has admitted that from the date of accident the offending vehicle was insured with Oriental Insurance Company.

Three witnesses were examined on behalf of Claimant and documentary evidence were also produced which were marked as Exhibits. No evidence was led on behalf of Opposite parties.

The Claims Tribunal has ascertained the age of deceased as 40 years and his monthly income as Rs. 3000/- and annual income as Rs. 36,000/- and had applied multiplier of 16 and assessed compensation amount as Rs. 5,76,000/- and thereafter has deducted 1/3rd towards his personal expenses and



had found loss of dependency to be Rs. 3,84,000/- and thereafter under conventional heads had granted Rs. 5000/- for funeral expenses, Rs. 5000/- for loss of consortium and Rs. 2500/- for loss of estate and has quantified compensation amount as Rs. 3,96,500/- as just and proper compensation for which Claimants are entitled and Rs. 50,000/- has already been paid has directed the Oriental Insurance company ltd to pay compensation amount of Rs. 3,46,500/- with interest @ 6 per cent per annum from the date of filing of claim application till its payment. Aggrieved by the quantum of compensation Claimants-appellants have preferred this appeal.

It has been submitted by learned counsel for the appellant that Claims Tribunal has not granted any future prospect as well as deduction towards personal expenses should be $\frac{1}{4}$ th as number of dependants are 4.

After hearing the learned counsel for the parties this Court reassesses the amount of compensation for which the appellants are entitled in terms of judgment and order passed by the Apex Court in the case of *National Insurance Company Ltd. vs. Pranay Sethi & Ors* since reported in (2017) 16 SCC 680, as follows:-

Annual income	Rs. 36,000/-
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Future Prospect(25%)	Rs. 9000/-
Total Income	Rs. 45,000/-
Personal expenses(1/4 th)	Rs. 11,250/-
Loss of dependency	Rs. 33,750/-
Multiplier (15)	Rs.5,06,250/-
Loss of consortium	Rs. 40,000/-
Loss of estate	Rs. 15,000/-
Funeral expenses	Rs. 15,000/-
Total	Rs. 5,76,250/-

(Rupees Five Lacs Seventy Six Thousand Two Hundred Fifty Only).

The award is modified to the extent that claimants are entitled for compensation amount of Rs. 5,76,250/- (Rupees Five Lacs Seventy Six Thousand Two Hundred Fifty Only) with interest @ 6 per cent per annum from the date of filing of application till its payment.

The Insurance Company is directed to pay the remaining compensation amount, after making deduction of the compensation amount already paid from Rs. 5,76,250/- and pay the remaining compensation amount within three months from the date of receipt/production of a copy of order passed by this Court with interest @ 6 per cent per annum on the remaining



compensation amount from the date of claim application till
date of payment.

The miscellaneous appeal stands disposed of.

(S. Kumar, J)

ranjan/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	15.10.2019
Transmission Date	NA

