

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.92 of 2015

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- 1) Jyoti Kumari, D/o Ram Babu Prasad (Minor) under the guardianship of her father, appellant no.2, Ram Babu Prasad
2) Ram Babu Prasad, son of Sri Bhagya Narayan Prasad, both resident of village- Nagdaha Purnahiya P.S. Ghorasahan, District- East Champaran

... .. Appellants/ claimants

Versus

1. Smt. Sadhana Devi, w/o Nawal Kishore Singh, resident of village- and P.O. Nayagaon, P.S. Shyampur (Bhatha), Dist- Sheohar (owner)
2. Arvind Kumar Singh, son of Sri Lalan Prasad Singh, resident of village, Balhi Narsingh, P.S. Sahebganj, Dist.- Muzaffarpur (driver)
3. The Oriental Insurance Co.Ltd., through its Branch Manager, Branch Office- Balua Chowk, Motihari, Dist- East Champaran

... .. Respondents/ opp. Parties

Appearance :

For the Appellant/s : Mr.Madhurendra Kumar, Adv
For the Respondent no.3 : Mr.Sanjay Kumar No. 1, Adv

CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT

Date : 17-07-2019

Heard learned counsel for the parties.

This appeal has been filed under Section 173 of M.V. Act 1988 for enhancement of compensation amount awarded by the Motor Accident Claims Tribunal, by judgment and order dated 12.02.2014 and Award dated 09.01.2015 passed in Claim Case No. 69 of 2013 passed by Adhoc Additional District and Sessions Judge-I-cum-MACT, East Champaran, Motihari, by which claims Tribunal has granted compensation of Rs. 2,62,500/- with interest @ 9 per cent per annum from the date of filing of claim case till its payment.

Claimant No. 1 is the minor daughter of Claimant No.



2 and they along with other persons were going to Deoghar by Bus bearing registration No. BR 06 PA 7971 on 12.06.2012, when at about 6:15 am the Bus turned turtle and Claimant No. 1 sustained grievous injury on her right arm and she was brought to Sadar Hospital, Deoghar, where Doctor after providing first aid referred her to PMCH, Patna, and thereafter Claimant NO. 1 was treated by Dr. Arban Sinha and Dr. Rakesh Kumar and on 01.09.2012, she was admitted in AIIMS, New Delhi and she was undergoing treatment and suffered 50 per cent permanent disability on account of said motor accident and claimed Rs. 10,40,000/- as compensation.

On the basis of evidence and materials available on record, the Claims Tribunal awarded compensation of Rs. 2,62,500/- and aggrieved by which Claimants-appellants have preferred this appeal against quantum of compensation.

Claims Tribunal has found that victim Jyoti Kumari was aged about 8 years at the time of accident and she suffered fractured injury in her right arm and became 50 per cent permanent disabled on account of injuries sustained in said motor accident and since injured was a non earning person as such Tribunal has assessed her notional income as Rs. 15,000/- per annum and has applied 15 as multiplier and since disability



is 50 per cent compensation has been assessed as Rs. 1,12,500/- and thereafter has further granted Rs. 1 Lac for hardship of life and Rs. 50,000/- for medical expenses and quantified the compensation amount as Rs. 2,62,500/- with interest @ 9 per cent per annum from the date of filing of claim application till its realization.

In view of decision of Hon'ble Apex Court in the case of **Reshma Kumari & Ors vs. Madan Mohan & Ors** since reported in (2013) 9 SCC 65, the Hon'ble Apex Court has held that while making calculation for grant of compensation in case of minor Rs. 15,000/- has to be taken as notional income and 20 as multiplier which works out compensation to be Rs. 3 Lacs and as disability is 50 per cent Claimants-appellants are entitled for 50 per cent of compensation amount which comes to Rs. 1,50,000/-.

Apart from compensation amount of Rs. 1,50,000/- Claimants-appellants are also entitled for 40 per cent as future prospect, which makes the compensation amount as Rs. 2,10,000/-. Claimants-appellants are also entitled for Rs. 1,00,000/- for pain and suffering, Rs. 1,00,000/- for medical expenses, Rs.2,00,000/- for loss of amenities, happiness and enjoyment of life and Rs. 50,000/- for future medical expenses.



Accordingly this Court finds that Claimants-appellants are entitled for compensation of Rs. 6,60,000/- with interest @ 9 per cent per annum from the date of filing of claim application till its realization and Award is modified to said extent.

The Insurance company is directed to pay the remaining compensation amount after deducting the compensation amount already paid to the Claimants-appellants from Rs. 6,60,000/- and pay the remaining compensation amount within three months from the date of receipt/production of a copy of the order passed by this Court with interest @ 9 per cent per annum on the remaining compensation amount from the date of filing of claim application till its realization.

With the aforesaid observation and direction, the Miscellaneous Appeal is disposed of.

(S. Kumar, J)

ranjan/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	21.10.2019
Transmission Date	NA

