IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.224 of 2015

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1. Parmila Devi W/O Late Vinay Shankar Singh
2. Sati Devi W/O Late Shaligram Singh
3. Rajeeb Kumar Singh S/O Late Vinay Shankar Singh
4. Sanjeeb Kumar Singh S/O Late Vinay Shankar Singh.
All Resident of Village- Lohanipur, P.S.- Kadamkuan, District Patna, Permanent address Village and Post- Dihrampur, P.S. Bishunpur, District- Darbhanga.

... ... Appellant/s

Versus

1. Divisional Manager, D.O. 1st National Insurance Co. Ltd., Arunachal Building, Exhibition Road, Patna.
--------- Respondent No.1/Insurance Company, opposite party No.1
2. Md. Mumtaz S/O Md. Fakhruddin, Resident of Mohalla- New Azimabad Colony, Sandalpur, P.S. Sultanganj, District Patna.
------- Respondent No. 2/Owner, opposite party No.2.
3. Raj Kumar S/O Sri Krishna Mahto at present Address Mohalla Artabad Gulzarbagh, P.S Alamganj, Distt. Patna.
-------- Respondent No. 3/Driver, opposite party No. 3

... ... Respondent/s

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Appearance :
For the Appellant/s : Mr.Alok Kumar @ Alok Kr Shahi, Adv.
For the Respondent/s : Mr. Ashok Priyadarshi, Adv.

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CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT
Date : 31-07-2019

Heard the parties.

2. This appeal under Section 173 of M.V. Act, 1988 has been filed on behalf of claimants/appellants for enhancement of compensation amount awarded by judgment dated 01.11.2013 and Award dated 19.03.2015 passed by Additional District Judge-II-cum-M.A.C.T., Patna in Claim Case No. 362 of 2009 by which claims tribunal has granted Rs.

16,90,140/- compensation to the claimants alongwith interest @ 6% p.a.

3. Claimants are widow, children and parents of deceased Vinay Shankar Singh who died in a motor accident on 19.12.2008 when he was sitting as a pillion rider on a motorcycle which was dashed by a Sumo Jeep being driven in a rash and negligent manner in which deceased sustained serious injuries and subsequently died. Deceased was a constable and his monthly salary was Rs. 19,190/- and after deduction he used to get Rs. 16,160/-. Deceased was aged 46 years and the offending vehicle was insured by National Insurance Company Ltd.

4. Claims tribunal has ascertained the monthly salary of deceased as Rs. 16,160/- and annual income to be Rs. 1,93,920/- and has deducted 1/3rd towards personal expenses of deceased and since deceased was 46 years applied multiplier of 13 and assessed compensation as Rs. 16,80,640/- and has further granted Rs. 9,500/- under conventional heads for funeral expenses, loss of consortium and loss of estate and quantified compensation amount as Rs. 16,90,140.00/- and directed Insurance Company to pay the compensation amount with interest @ 6% p.a. from the date of filing of claim petition till its

realization.

5. Aggrieved by quantum of compensation claimants/appellants have preferred present appeal on the ground that the claims tribunal ought to have assessed monthly income of deceased to be 19,190/- and has wrongly deducted Rs. 3030/- against GPF and G.I. as well as no future prospect had been granted by the claims tribunal, although 30% future prospect ought to have been granted.

6. The Apex Court in case of Sunil Sharma and Ors. Vs. Bachitar Singh & Ors. since reported in 2011 (11) SCC 425 has held that HRA, CCA, Medical allowance, PPF, GIS have to be taken into consideration in calculation of income of deceased. Accordingly, monthly income of deceased is assessed as 19,190/- and 30% is to be added towards future prospects.

7. The compensation amount is re-assessed by this Court in terms of judgment and order delivered by Apex Court in case of ***Sarla Verma and Ors vs. Delhi Transport Corporation and Others since reported in (2009) 6 SCC 121*** and in the case of ***National Insurance Company Ltd. vs. Pranay Sethi & Ors since reported in (2017) 16 SCC 680.***

Monthly Income	Rs. 19,190/-
Future Prospect(30%)	Rs. 5,757/-
Total Income	Rs. 24947/-
Annual Income	Rs. 2,99,364/-

Personal expenses(1/4th)	Rs. 74,841/-
Loss of dependency	Rs. 2,24,523/-
Multiplier	13
Compensation	Rs. 29,18,799/-
Loss of consortium	Rs. 40,000
Loss of estate	Rs. 15,000/-
Funeral expenses	Rs. 15,000/-
Total	Rs. 29,88,799/- (Twenty nine lacs eighty eight thousand seven hundred ninety nine only).

8. The award passed by the claims tribunal is modified to the extent that claimants are entitled for compensation of Rs. 29,88,799/- (Twenty nine lacs eighty eight thousand seven hundred ninety nine only).

9. The National Insurance Company is directed to pay the remaining compensation amount to the claimants after deducting the compensation amount already paid from Rs. 29,88,799/- and make payment of the remaining compensation amount with 6% of interest on remaining compensation amount from the date of filing of claim case till its payment.

10. Miscellaneous appeal is disposed of.

(S. Kumar, J)

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AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	
Transmission Date	N.A.