IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.103 of 2003

Against the judgment dated 09.10.2002 passed by the learned 6th Additional District Judge-cum-Motor Accident Claim Tribunal, Chapra in Motor Accident Claim Tribunal Case No. 06 of 1990

1. Chairman (Now Administrator), Bihar State Road Transport Corporation, Patna
2. Managing Director (Now Administrator) Bihar State Road Transport Corporation, Patna
3. Bihar State Road Transport Corporation through its Managing Director (Now Administrator) Bihar State Road Transport Corporation, Bir Chand Patel Path, Patna

... ... Appellants

Versus

KALAWATI DEVI JAISWAL and ORS

... ... Respondent/s

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Appearance :

For the Appellant/s	:	Mr. P.K. Verma, Sr. Advocate Mr. Arvind Kumar, Advocate
For the Respondent/s	:	Mr. Dr. Rajesh Kumar Singh, Advocate Mr. A.K. Bhaskar, Advocate Mr. S.K. Jha, Advocate

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL JUDGMENT
Date : 17-01-2019

By the impugned judgment dated 09.10.2002, the learned 6th Additional District Judge-cum-Motor Accident Claim Tribunal, Chapra, in Motor Accident Claim Tribunal Case No. 06 of 1990, has awarded compensation in favour of the claimants-respondents for death caused to Suresh Prasad Jaiswal, aged about 35 years, in a motor vehicle accident on 24.12.1989.

2. The brief fact of this case is that Late Suresh Prasad Jaiswal was travelling on Jeep bearing Registration No.

BEA 6225 along with other passengers. A Bus of the Bihar State Road Transport Corporation bearing Registration No. BR-20H-0025 was coming rashly and negligently and dashed against the Jeep which caused injury to the driver as well as other passengers and during course of treatment, Mr. Suresh Prasad Jaiswal died.

3. Before the Tribunal, it was brought on the record that the deceased was an Income Tax Payee. His income was Rs. 50,000/- (Fifty Thousand) per annum. The learned Tribunal deducted 1/3rd for personal expenses of the deceased and used multiplier of 12 for coming to the conclusion that the dependents were entitled to compensation of Rs. 4,20,000/- (Four Lacs and Twenty Thousand) besides other compensation for loss of estate as well as loss of consortium etc. total Rs.4,50,000/- (Four Lacs and Fifty Thousand) payable along with 9% interest from 19.02.1990 till realization of the amount.

4. The Bihar State Road Transport Corporation has challenged the award on two grounds. Firstly, the Jeep was itself negligent, hence, the Tribunal should have considered the question of contributory negligence and entire liability should not have been fixed against the appellants.

5. The available FIR would reveal that informant is eye witness of the occurrence and he has stated that the driver of the Bus was negligent and his negligence caused great damage to the Jeep as well as to the passengers on Jeep, rather a corner of the front of the Bus got some damage. There is no contrary evidence oral or documentary that driver of the Jeep was also negligent, hence, there is no merit in the contention of learned counsel for the appellants that this was a case wherein question of contributory negligence should have been decided by the Tribunal.

6. He further submits that without any material on the record to substantiate that the deceased was earning Rs. 50,000/- (Fifty Thousand) per annum, the same amount has been taken for consideration of multiplicand whereas the income tax receipt produced by the claimants vide Exhibit-1 would show that yearly income of the deceased was Rs.18,100/- (Eighteen Thousand and One Hundred) and he had paid tax Rs.25/- (Twenty Five) on that.

7. The record does not show that there is any material on the record to substantiate that the deceased had no other source of income which was not taxable. It has come in the evidence that the deceased had the sawmill and after his death, the sawmill got closed forever.

8. In absence of any contrary evidence on the record, the finding of the Tribunal that the deceased had income of Rs.50,000/- (Fifty Thousand) per year can not be interfered with. Hence, there is no merit in the submission aforesaid.

9. Accordingly, this appeal stands dismissed as devoid of any merit.

10. Cost of Rs. 5,000/- (Five Thousand) is awarded against the appellants which shall be payable to the victim-respondents.

(Birendra Kumar, J)

Kundan/Rajan

AFR/NAFR	N.A.
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