

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.523 of 2015

1. Asha Devi W/o Chandeshwar Sah
2. Vicky Kumar S/o Chandeshwar Sah
3. Neha Kumari D/o Chandeshwar Sah (Appellant no. 2 to 3 are minor children under the guardianship of Appellant no. 1, mother. All are residents of Village - Pakhrai (Phulwaria), P.S - Maniyari, District – Muzaffarpur.

... .. Appellant/s

Versus

1. Mukesh Kumar Mahto S/o Jagdish Mahto At - Subhai Gadh (South Tola), P.S. - Sadar, District - Vaishali.
2. Birju Kumar S/o Parmeshwar Mahto At - Daulatpur, P.S. - Sadar, District - Vaishali.
3. National Insurance Company Ltd. through Branch Manager, National Insurance Company Ltd., Yadav Chowk, Hajipur.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Alok Kumar @ Alok Kr Shahi, Adv.
For the Respondent No.3	:	Mr. Ravi Bhardwaj, Adv.

CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT

Date : 16-07-2019

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 31.07.2015 and Award dated 06.08.2015 passed by Additional District Judge-I-cum-M.A.C.T., Hajipur, Vaishali, in Claim Case No. 25 of 2008 by which the claims Tribunal has



found claimants to be entitled for compensation of Rs. 6,57,500/- and directed to pay compensation of Rs. 6,07,500/- with interest @ 7% p.a from date of filing of claim application till its payment after deducting Rs. 50,000/- as interim compensation which was already paid.

3. Appellants/Claimants widow, sons and daughters of deceased Chandeshwar Sah filed claim application for grant of compensation of Rs. 4,00,000/- (four lacs) on account of death of Chandeshwar Sah in a motor accident. Deceased Chandeshwar Sah was aged 35 years and his monthly income was Rs. 4,500/- at the time of death who died in motor accident caused by Tempo which was being driven in a rash and negligent manner and at the time of accident offending vehicle was insured with National Insurance Company Ltd.

4. On the basis of evidence on record, the learned Claims Tribunal assessed the annual income of deceased to be Rs. 54,000/- and deducted Rs. 13,500/- (1/4th) towards his personal expenses and assessed loss of dependency to be Rs. 40,500/- p.a. and age of the deceased to be 35 years and applied multiplier of 16 to quantify the compensation amount which comes to Rs. 6,48,000/-. Further under conventional head claims tribunal has awarded Rs. 2,000/- for funeral expenses Rs.



2,500/- for loss of estate and Rs. 5000/- for loss of consortium and has assessed Rs. 6,57,500/- to be just and proper compensation and has directed the National Insurance Company Ltd. to pay compensation of Rs. 6,07,500/- with interest @ 7% p.a. from the date of filing of claim case till its realization after deducting Rs. 50,000/- which was already paid as interim compensation.

5. Aggrieved by the quantum of compensation claimants/appellants have filed the present appeal. It has been submitted on behalf of counsel for the appellants that no future prospect has been granted as such 40% is to be added towards future prospects as well as Rs. 70,000/- under conventional heads. On the other hand the counsel for the respondents stated that Claims tribunal has wrongly deducted 1/4th towards personal expenses of deceased whereas it should be 1/3rd as number of dependents are three.

6. After hearing the counsel for the appellants and respondents, this Court re-assesses quantum of compensation for which claimants are entitled in terms of judgment and order passed by the 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.*

Annual Income	Rs. 54,000/-
Future Prospect(40%)	Rs. 21,600/-
Total income (p.a)	Rs. 75,600/-
Personal expenses (1/3rd)	Rs. 25,200/-
Loss of dependency	Rs. 50,400/- p.a.
Multiplier 16	
Compensation	Rs. 8,06,400/-
Conventional heads	Rs. 70,000/-
Total	Rs. 8,76,400/- (Eight lacs seventy six thousand four hundred only)

7. Claimants are entitled for compensation amount of Rs. 8,76,400/- (Eight lacs seventy six thousand four hundred only). Accordingly, award is modified to said extent.

8. National Insurance Company Ltd. respondent is directed to pay the remaining amount of compensation after deducting the compensation amount already paid from Rs. 8,76,400/- and pay the remaining compensation amount @ 7% interest p.a. from the date of claim application till its payment on the remaining compensation amount to be paid within two months from the date of receipt/production of a copy of order



passed by this Court.

9. The Miscellaneous appeal is disposed of.

(S. Kumar, J)

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AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	10.10.2019
Transmission Date	N.A.

