

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Appeal No.528 of 2014

(Appeal against the judgment and award dated 29.05.2014 passed by the learned Adhoc Additional District and Sessions Judge-V, Patna in Claim Case No.113 of 2012)

-
1. Ranju Kumari Wife of Late Sanjeet Kumar
 2. Sakshi Daughter of Late Sanjeev Kumar (aged about 3 years)
 3. Yash Raj Son of Late Sanjeev Kumar (aged about 2 years) 2 and 3 are minor son and daughter of Late Sanjeev Kumar under the guardianship of their natural mother Ranju Kumari All are Resident of Village - Sikandarpur, P.S.- Punpun, District - Patna

... .. Appellant/s

Versus

1. Praveen Kumar Singh Son of Sri Ram Bharosa Singh Resident of Village - Mosadpur, P.O.- Tilrath Road, Barauni, District - Begusarari (owner of the Tanker).
2. Sri RAM Pandey Son of Ram Bharosa Singh Resident of Village - Mosadpur, P.O.- Tilrath Road, Barauni, District - Begusarari (Driver of the Tanker).
3. The Oriental Insurances Company Ltd. through its Regional Manager, Regional Office, Pirmuhani, District-Patna.
4. Shakuntala Kumari Wife of Suresh Singh(mother of the deceased).
5. Suresh Singh Son of Late Rameshwar Singh (father of the deceased) 4 and 5 are Resident of Village - Sikandarpur, Police Station -Punpun, District -Patna

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Rajesh Kumar, Adv
For the Respondent No.3: Mr.Bimlesh Jha, Adv

CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL JUDGMENT

Date : 06-03-2019

Heard learned counsel for the parties.

2. The claimants are wife and two minor daughters of deceased Sanjeev Kumar, who died in a motor vehicle accident. At the time of death, Sanjeev was doing business of dairy and was earning Rs.4,500/- per month. He was aged about 26 years.



3. The claimants claimed compensation of rupees five lacs. The Tribunal awarded Rs.6,57,500/-. Still the claimants are not satisfied with the quantum of award. Hence, this appeal.

4. Grievance of the appellants is that considering the number of dependants, the Tribunal should have deducted 1/4th instead of 1/3rd for personal expenses of the deceased. Contention is that the parents of the deceased are also alive and they are respondents herein. Since the parents never put their claim before the Tribunal for any compensation, hence, the Tribunal has rightly not considered their claim and ordered for deduction of 1/3rd for personal expenses of the deceased.

5. Considering the age of the deceased as 26 years, the Tribunal should have applied multiplier of 17 as held in **Sarla Verma & Ors Vs.Delhi Transport Corporation and Anr**, reported in **2009(6) SCC 121** instead of 18. The Tribunal has not awarded anything for loss of future prospect which should be 40% of the income of the deceased.

6. However under the customary head for loss of estate, funeral expenses and loss of consortium, the Tribunal should have awarded Rs.15,000/ for each for loss of estate and funeral expenses and Rs.40,000/- for loss of consortium. Thus



the total compensation payable was 9,26,800/-. The Tribunal has already allowed interest of 6% interest per annum which was not the rate of interest on the date of accident or the order. Hence, the claimants shall also be entitled to 8% per annum interest from the date of filing of the claim case till realization of the amount instead of 6% interest awarded by the Tribunal. Finally the claimants are entitled for the following compensation:

- Income: 4500/- per month
- Percentage increase towards future prospect:40%
- $4500 \times 40\% = 1800/-$
- Total income = 6300/-
- One-third deduction: 2100/-
- Income after deduction: 4200/-
- Annual income: $4200 \times 12 = 50,400/-$
- Multiplier applied: 17 (since age of deceased was 26 years)
- Los of dependency: Rs.8,56,800/-
- Loss of consortium:Rs.40,000/-
- Los of estate: Rs.15000/-
- Funeral expenses: Rs.15000/-
- Total compensation=Rs.9,26,800/-.



7. With the aforesaid modification in the impugned award, this appeal stands allowed.

(Birendra Kumar, J)

Nitesh/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	11.03.2019
Transmission Date	NA

