

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Miscellaneous Appeal No.324 of 2016**

Babloo Dubey, s/o Rajendra Dubey, r/o village- Lodiyan, P.S.-  
Sahebganj, District- Muzaffarpur.

... .. Appellant/s

Versus

1. Nagendra Thakur, s/o Bhagelu Thakur, r/o village- Hadian, P.O.-  
Barbat Bazar, P.S.- Mufasil Bettiah, District- West Champaran.
2. D.M. Bajaj Allianze Gen Ins. Co. Ltd. 6<sup>th</sup> Floor, Anand Bihar, Bihar  
Boring Canal, Road, Patna.

... .. Respondent/s

**Appearance :**

|                         |   |                                  |
|-------------------------|---|----------------------------------|
| For the Appellant/s     | : | Mr. Sunil Kumar Pandey, Advocate |
| For the Respondent No.2 | : | Mr. Ashok Priyadarshi, Advocate  |

**CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR**  
**ORAL JUDGMENT**

**Date : 19-02-2019**

Heard learned counsel for the parties.

2. This miscellaneous appeal has been preferred, under Section 173 of the Motor Vehicle Act, 1988, against the judgment and award dated 29.02.2016 and 14.03.2016, respectively, passed by the learned 3<sup>rd</sup> Additional District Judge-cum-M.V.Act, Muzaffapur in Claim Case No.237 of 2011.

3. The appellant is not satisfied with the award of Rs.85,000/- by the Tribunal along with 7% interest from the date of application against claim of Rs. 2,50,000/-

4. The appellant is father of *Chandani Khatoon* aged about nine years, who died of motor vehicle accident caused by a car bearing registration No.*BR-22E-4700*.

5. The claim of the appellant is that in *Lal Babu Prasad @ Lal Bahadur Prasad and Another Vs. Jai Prakash and Others*



reported in **2018 (1) BLJ PHC 122**, a Bench of this Court had considered the identical matter of death of a child aged about 12 years and also considered the judgment of the Hon'ble Apex Court in **Reshma Kumari Vs. Madan Mohan and Another** reported in **2013 (9) SCC 65** for taking notional income of the deceased as Rs.15,000/- multiplied by 20. This payable compensation was calculated as Rs.3,00,000/-. Besides the aforesaid, Rs.50,000/- was paid against loss of love and affection and funeral expenses in view of the judgment of the Hon'ble Apex Court in **Reshma Kumari's** case.

6. In my view also, the just and reasonable compensation would be **Rs.15,000 x 20 = Rs.3,00,000/- added by Rs.50,000/-** under customary head of funeral expenses and loss of love and affection. The same interest would be payable which the Tribunal has awarded.

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

8. The Insurer shall pay the remaining amount of compensation after deducting the already paid amount.

(Birendra Kumar, J)

abhishek/-

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