

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.363 of 2012

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1. Bibi Rabina Khatoon W/O Md. Tahir R/O Village- Makaili, P.S.- Baisi, Distt.-Purnea
 2. Md. Tahir S/O Late Sk. Ismail R/O Village- Makaili, P.S.- Baisi, Distt.-Purnea

... .. Appellant/s

Versus

1. Jugal Kishore Singh and Ors S/O Mahendra Narayan Singh R/O Village- Chandwa, P.S.- Falka, Distt.- Katihar Driver
2. Vinod Kumar Agarwal S/O Sewak Mal Agarwal Bharat Auto Service Mirchaibari, Katihar Owner
3. National Insurance Co. Ltd. Through Divisional Office, National Insurance Co. Ltd., Purina Insurer

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Manish Kumar, Adv
For the Respondent no. 2:		Mr.Sanjeev Kr Singh, Adv
For the Insurance Co.	:	Mr. Ashok Priyadarshi, Adv

CORAM: HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

Date : 21-08-2019

Heard learned counsel for the parties.

This appeal under section 173 of the M.V. Act has been filed by the claimant-appellant for enhancement of compensation amount awarded by judgment and Award dated 23.02.2012/ 13.03.2012 passed by learned Additional District Judge-cum-MACT, Purnea, by which Claims Tribunal has awarded compensation of Rs. 1, 52,000/- to the Claimants.

Claimants have filed an application for grant of compensation on account of death of their son in a motor accident caused by Tank Lorry bearing registration no. BR 11B



9975 which was being driven by the driver of the offending vehicle in a rash and negligent manner. The age of the victim on the date of accident was 10 Years, who died in the motor accident on 06.05.2006. The Claims Tribunal has held that due to rash and negligent driving by the Driver of the offending vehicle accident took place in which son of claimant died and the vehicle was insured by the National Insurance Company Ltd., as such they are liable to pay the compensation amount. Deceased was 10 years old and was a non earning member of the family and has applied multiplier of 15 considering the notional income of deceased to be Rs. 15,000/- and after deducting 1/3rd towards his personal expenses the annual loss of dependency has been assessed as Rs. 10,000/- and multiplying it with 15 compensation was worked out as Rs. 1,50,000/- and thereafter Rs. 2000/- was granted for funeral expenses and total compensation was quantified as Rs. 1,52,000/- and aggrieved by the quantum of compensation the Claimants have filed this appeal.

In view of decision of Hon'ble Apex Court in the case of **Reshma Kumari & Ors vs. Madan Mohan & Ors** since reported in (2013) 9 SCC 65, which was approved in the case of **National Insurance Company Ltd. vs. Pranay Sethi & Ors**



since reported in **(2017) 16 SCC 680**, in which in cases of children below the age of 15 Years dying in motor accident the dependants are entitled for compensation which is to be calculated using multiplier of 20 and notional income as Rs. 15,000/- per annum which makes the compensation amount as Rs. 3,00,000/- and thereafter Rs. 50,000/- is to be added under conventional heads and total compensation for which Claimants are entitled is Rs. 3,50,000/- with interest @ 6 per cent per annum from the date of filing of claim application.

Accordingly, the award of the Claims Tribunal is modified to the extent that Claimants are entitled for compensation of Rs. 3,50,000/- with interest @ 6 per cent per annum from the date of filing of claim application, till its realization. The Insurance company is directed to pay the remaining compensation amount after deducting the compensation amount already paid from Rs. 3,50,000/- and same to be paid to the Claimants with interest @ 6 per cent per annum from the date of filing of claim application till its realization within 3 months from the date of receipt/production of a copy of the order passed by this Court.

The miscellaneous appeal is allowed to the extent as indicated above.



LCR of this case be returned to the court concerned
forthwith.

(S. Kumar, J)

ranjan/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	13.12.2019
Transmission Date	NA

