

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.92 of 2014

1. Maha Devi, W/O Late Yadunandan Rai
 2. Sujit Kumar, S/O Late Yadunandan Rai
 3. Juli Kumari, Minor, D/O Late Yadunandan Rai
 4. Ajit Kumar, Minor, S/O Late Yadunandan Rai
 5. Lalo Kumari, Minor, D/O Late Yadunandan Rai
 6. Anuradha Kumari, Minor, D/O Late Yadunandan Rai
- Appellant Nos. 3 to 6 are minors Under The guardianship of their Mother,
Appellant no.1 All Resident Of Village Chakbibi, P.S. Bidupur, District
Vaishali.

... .. Appellant / Claimants 1 to 8

Versus

1. Ashok Kumar Singh, S/O Late Ram Janam Singh, Village Rehua, District
Siwan. Respondent / opposite party no.1
2. Raj Ballabh Singh, S/O Dinanath Singh, Resident of Village - Khardara,
P.S. P.O. Asharvan, District Siwan. Respondent / opposite party no.2
3. National Insurance Company Ltd. Through
(a) Branch Manager, National Insurance Company Ltd., Divisional Office,
Yadav Chowk, Hajipur.
(b) Branch Manager, National Insurance Company Ltd., Siwan.

... .. Respondent/ Opposite party no.3

Appearance :

For the Appellant/s	:	Mr.Alok Kumar @ Alok Kr Shahi Mr. A. Sinha, Advocates
For the Insurance company	:	Mr.Ashok Priyadarshi, Advocate
For the respondent nos.1 & 2	:	Mr. Manoj Kr. Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT

Date : 16-08-2019

Heard parties.

2. This miscellaneous appeal has been filed for
setting aside the judgment dated 30.10.2013 and award dated
13.11.2013 passed by Additional District Judge- I- cum- Motor
Accident Claims Tribunal, Hajipur, Vaishali in Claim Case
No.9/2008 by which the learned Tribunal has granted



compensation of Rs.4,08000/- with interest @ 8 % per annum.

The appellants have challenged the quantum of compensation.

3. Claimants are widow and children of deceased who have filed a claim petition under Section 166 of the Motor Vehicles Act for grant of compensation on account of death of husband of claimant no.1 on 18.12.2007 in a motor accident. It has been further stated that on 18.12.2007 at Mahatma Gandhi Setu a truck bearing registration No. UP 53 T 1065 was being driven in a rash and negligent manner which dashed against the deceased and other persons who were having tea as a result of which, Yadunandan Rai died on the spot.

4. On the basis of fardebyan. Sadar (Ganga Bridge) P.S. Case No.415/07 was instituted under Sections 279, 337, 338, 427, 304(A) of the Indian Penal Code against the driver of the offending vehicle and after investigation, the police found the case of rash and negligent driving by the driver of the vehicle to be true and submitted charge-sheet against him.

5. Notices were issued to owner, driver and the Insurance Company who have filed their written statement. Opposite party nos.1 and 2 in their written statement have stated that vehicle was insured by opposite party no.3, National Insurance Company Limited.



6. In support of her claim case, oral as well as documentary evidences were adduced on behalf of the claimants and on consideration of oral and documentary evidence, the Tribunal found that the deceased died due to rash and negligent driving by driver of the offending vehicle and on the date of accident, the offending vehicle was insured by opposite party no.3, i.e., National Insurance Company Limited as such, claimants are entitled to receive compensation from the Insurance Company.

7. In order to determine the quantum of compensation, the Tribunal has found that deceased at the time of death was 39 years old which is also corroborated by the postmortem report. He was a daily wage earner and has assessed Rs.100/- as his daily income and Rs.36,000/- as his annual income and has applied multiplier of 15 and, thereafter, 1/4th of the total income has been deducted towards his personal and living expenses and has found Rs.40,5000/- would be a just and proper compensation and, thereafter, under conventional head, has granted Rs.3,000/- for funeral expense.

8. Aggrieved by the quantum of compensation, the present miscellaneous appeal has been filed on behalf of the claimants for enhancement of amount of compensation.



9. On the basis of admitted facts and the law laid down by the Hon'ble Supreme Court in ***Sarla Verma and Ors vs. Delhi Transport Corporation and Others*** since reported in ***(2009) 6 SCC 121*** and ***National Insurance Company Limited Vs. Pranay Sethi and Ors.*** since reported in ***(2017) 16 SCC 680***, the quantum of compensation is re-assessed by this Court as follows:-

Annual Income (Rs.3000/- x12)	= Rs.36,000/-
future prospect (40%)	= Rs. 14,400/-
Total Income	= Rs. 50,400/-
Personal expenses 1/4th	= Rs.12,600/-
Loss of dependency	=Rs.37,800/-
Multiplier (15)	=Rs.5,67,000/-
Loss of Estate	= Rs. 15,000/-
Funeral expenses	=Rs.15,000/-
Loss of consortium	= Rs.40,000/-
Total compensation	= Rs.6,37,000/-

10. Claimants are entitled for compensation of Rs.6,37,000/-(rupees six lacs thirty seven thousand only) and Award passed by the claims tribunal is modified to said extent.

11. The insurance company is directed to pay the remaining compensation amount after deducting the amount



already paid from Rs.6,37,000/- (rupees six lacs thirty seven thousand only) and pay the remaining compensation amount with interest @ 8% per annum on the remaining compensation amount from the date of filing of claim petition till the date of payment within two months from the date of receipt/production of copy of order passed by this Court.

12. Miscellaneous appeal is allowed to the extent as indicated above.

13. Let the LCR be returned forthwith to the court below.

(S. Kumar, J)

Sanjay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	29.10.2019
Transmission Date	NA

