

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Miscellaneous Appeal No.279 of 2016**

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1. Renu Devi, w/o late Sunil Kumar Giri
2. July Kumari, D/o Late Sunil Kumar Giri
3. Abhishek Kumar, S/o Late Sunil Kumar Giri
4. Kajal Kumari, D/o late Sunil Kumar Giri, Minor under the guardianship of mother Renu Devi, appellants Nos.2, 3, 4, All of village- Husaini, P.S. Dumariaghat, District, East Champaran

... Applicants ... Appellant/s

Versus

1. The New India Assurance Co. Ltd. through its Branch Manager, Main Road, Motihari, Dist, East Champaran
2. Om Prakash, S/o Bhim Sain, M.No.159, Ward No.06 Balsa Para Old Faridabad (Haryana)
3. Ramanand, son of Lal Singh, at Kotwan Dhara, P.S. Kotwan District- Mathura (U.P.)

...Opp. Party / Respondent/s

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**Appearance :**

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|----------------------|---|---------------------------------|
| For the Appellant/s  | : | Mr. Ashok Priyadarshi, Advocate |
| For the Respondent/s | : | Mr. Sanjay Singh, Advocate      |

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

**Date : 26-06-2019**

**I.A. No.9531 of 2016:**

Heard.

This interlocutory application has been filed for condoning the delay of 5 months and 11 days in filing miscellaneous appeal.

For the reasons stated in the petition, this Court is satisfied that appellants were prevented for sufficient cause in filing the appeal within time, as such, the delay in filing the present appeal is condoned.



I.A. No.9531 of of 2016 stands allowed.

**M.A. No.279 of 2016:**

Heard parties.

2. This miscellaneous appeal has been filed for enhancement of Award granted to appellants by judgment dated 22.6.2015 and Award dated 1.8.2015 passed in Claim Case No.44 of 2009 passed by 11<sup>th</sup> Additional District Judge-cum-Motor Vehicle Accident Claims Tribunal, Motihari, East Champaran by which the Tribunal has awarded compensation of rupees four lac forty five thousand with interest @ 9% per annum to the claimants.

3. Briefly stated the fact of the case as disclosed in claim petition is that on 8.2.2009 at about 8.15 p.m. while Sunil Kumar Giri, husband of claimant, was returning from his duty along with contractor Amod Chauhdary who was driving motorcycle all of a sudden, truck bearing registration No. HR 389-4776 which was being driven by driver in negligent and rash manner, dashed with the motorcycle as a result of which, Sunil Kumar Giri and Amod Chaudhary were seriously injured and succumbed to their injuries.

4. The deceased was 34 years old at the time of death and he died leaving behind his widow and three minor children



and he was a peon in Green Ply Factory and was getting monthly salary of Rs.3,200/- and claimants were fully dependant upon the deceased and had claimed compensation of four lacs forty five thousand.

5. The Tribunal has ascertained Rs.3000/- as notional income and Rs.36,000/- to be annual income and has deducted  $\frac{1}{4}$  as personal expenses and as such loss of dependency is Rs.27,000/- per annum. The age of deceased at the time of death was 34 years as such, multiplier of 16 was taken and ascertained compensation amount to be Rs.4,32,000/-and under conventional head has granted Rs.10,000/- as loss of consortium Rs.10,000/- as funeral expenses and Rs.10,000/- as loss of estate and has ascertained Rs.5,12,000/- as just and fair compensation for which appellants are entitled, however, has denied future prospect for which claimants are entitled as well as Rs.70,000/- was required to be granted under conventional head, however, only 30,000/- has been granted.

6. On the basis of admitted facts the quantum of compensation is re-assessed by this Court:-

**(i) Annual Income (Notional)= Rs. 36,000/-**

**(ii) Personal Expenses  $\frac{1}{4}$  = Rs. 9,000/-**

**(iii) Loss of income = Rs.27,000/-**

**(iv) 40% future prospect = Rs. 10,800/-**



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|--------------------------------------------------|------------------|
| (v) Multiplier                                   | = 16             |
| (vi) Loss of dependency<br>(37800x16=6,04,800/-) | = Rs./- 6,04,800 |
| (vii) Loss of Estate                             | = Rs. 15,000/-   |
| (viii) Funeral Expenses                          | = Rs. 15,000/-   |
| (ix) Loss of Filial Consortium                   | = Rs.40,000/-    |
| Total                                            | = Rs.6,74,800/-  |

7. The insurance company is directed to pay the amount of compensation of Rs.6,74,800/- with 9% rate of interest from the date of judgment of Claims Tribunal till date of payment after deducting the compensation amount already paid to the claimants within three months from the date of receipt/production of copy of order passed by this Court.

8. Miscellaneous appeal is disposed of.

**(S. Kumar, J)**

Sanjay/-

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| AFR/NAFR          | NAFR       |
| CAV DATE          | NA         |
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