IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Appeal No.394 of 2012

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The United India Insurance Co. Ltd through the Branch Manager, United India Insurance Company Ltd., Mohalla- Bhagwandas J.P. Chowk, P.O.- Lalbagh, P.S.- Town, Distt.- Darbhanga.

... ... Appellant/s

Versus

1. Dukhi Sahni S/O Late Ruplal Sahni R/O Vill.- Arai, P.O.- Birdipur Arai, P.S.- Simri, Distt.- Darbhanga.
2. Majjo Alam S/O Israil Haque R/O Vill. and P.O.- Sardhwara, P.S.- Simri, Distt.- Darbhanga (Owner of The offending Vehicle).
3. Shailendra Kumar Thakur S/O Late Ram Udgar Thakur R/O Vill.- Kolhanta, P.O.- Basant Patori, P.O.- Moro-Basuara, Distt.-Darbhanga (Driver of the offending Vehicle).

... ... Respondent/s

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Appearance :

For the Appellant/s : Mr.Seema Kumari, Adv.

For the Respondent/s : Mr.Prem Kumar, Adv.

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CORAM: HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

Date : 25-06-2019

<u>I.A. No. 6155 of 2014</u>

Heard the parties.

This interlocutory application has been filed for condonation of delay of 11 months 27 days in filing the present appeal.

Sufficient reasons has been shown to condone the delay in filing appeal, accordingly the Interlocutory application is allowed and the delay in filing this appeal is condoned.

I.A No. 6155 of 2014 is allowed.

M.A. No. 394 of 2012

2. Aggrieved by judgment dated 10.02.2012 and Award dated 24.03.2012 passed by 1st Additional District Judge-Cum Motor Accident Claims Tribunal, Darbhanga in Claim Case No. 81/2003. Appellant United India Insurance Company Ltd. has filed this appeal against quantum of compensation.

3. It has been submitted on behalf of counsel for the appellant that quantum of compensation which has been awarded by the Tribunal in excessive. It has neither followed the principle of calculation as per second schedule of M.V. Act nor the calculation in terms of Sarla Verma Case and has adopted a mixed calculation resulting in excessive calculation.

4. Brief facts of the case is that Munchun Kumari, aged about 18 years died in a motor accident on 11.04.2003 caused by Jeep bearing No. BR-7P1722 which turned turtle due to rash and negligent driving by the driver of the offending vehicle.

5. Claimant is the father of deceased, who filed claim case for grant of compensation of Rs. 2 lacs. Tribunal on consideration of facts awarded compensation of Rs. 3,40,000/- with interest @ 8% p.a. to the claimant.

6. It has been submitted that claim tribunal has made deduction of 1/3rd against notional income of deceased towards

her personal expenses whereas deceased being unmarried, the deduction ought to be ½ of the notional income, as such, the quantum of compensation has become excessive. The tribunal has adopted multiplier of 16, whereas same should be 11. As such, the tribunal has erred in calculating the amount of compensation.

7. This Court on the basis of admitted fact re-assess the compensation amount for which claimants are entitled as has been held by the Apex Court in the case of ***National Insurance Company Ltd. vs. Pranay Sethi & Ors since reported in (2017) 16 SCC 680.***

Annual income	Rs. 36,000/-
Future prospect(40%)	Rs. 14,400/-
Total income	Rs. 40,400/-
Personal expenses(50%)	Rs. 20,200/-
Loss of dependency	Rs. 20,200/-
Multiplier (18)	Rs. 363,600/-
Loss of love & affection	Rs. 40,000/-
Loss of estate	Rs. 15,000/-
Funeral expenses	Rs. 15,000/-
Total	Rs. 4,33,600/- (Rupees Four

Lacs Thirty Three Thousand Six Hundred Only).

8. Claimants are entitled for compensation of Rs. 4,33,600/- (Rupees Four Lacs Thirty Three Thousand Six Hundred Only), however, tribunal has awarded compensation of Rs. 3,40,000/- as such, the compensation amount is neither excessive nor on higher side rather less than compensation amount for which claimants were entitled. Since, claimants have not filed any appeal or cross appeal, as such, the compensation amount cannot be enhanced as determined by this Court, accordingly this miscellaneous appeal filed on behalf of appellant United India Insurance Company Ltd. is dismissed.

9. Statutory amount of Rs. 25,000/- deposited by the appellant at the time of filing of appeal, a cheque of which be prepared in the name of claimant No. 1 and sent to the concerned claim tribunal for its payment to claimant No. 1 which shall be adjustable in the compensation amount.

10. This miscellaneous appeal stands dismissed.

(S. Kumar, J)

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AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	14.08.2019
Transmission Date	N.A.