

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.614 of 2016

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National Insurance Company Ltd., Sasaram through Sri Navin Chand Das,
Assistant Manager Cum and Duly Constituted Attorney National Insurance
Company Ltd. Regional Office 4th Floor Sone Bhawan, B.C. Patel Road, P.O.
G.P.O., P.S. Sachiwalaya Patna District Patna... (Opp. Party no.2)..

... .. Appellant/s

Versus

1. Savitri Devi, wife of Late Bindeshwari Prasad Prajapati (Claimant no.1)
2. Abhishek Kumar Son of Late Bindeshwari Prasad Prajapati, minor (Claimant no.2)
3. Apinath Kumar Son of Late Bindeshwari Prasad Prajapati, minor (Claimant no.3)
4. Vikash Kumar Son of Late Bindeshwari Prasad Prajapati, minor (Claimant no.4)
5. Sanjana Darshani daughter of late Bindeshwari Prasad Prajapati, minor (Claimant no.5)
6. Vivek Kumar Son of Late Bindeshwari Prasad Prajapati, minor, (Claimant no.6)
7. Abhimanyu Kumar son of Late Bindeshwari Prasad Prajapati , minor (Claimant no.7)
8. Ranjana Darshani daughter of late Bindeshwari Prasad Prajapati., minor, (Claimant no.8)
All minors under the guardianship of their mother Savitri Devi , (respondent no.1) All residents of Muradabad Khurd and P.S. Sasaram, District Rohtas.
9. Shri Anirudh Prasad Son of Jagarnath Prasad Resident of Village and P.O. Nawadih, P.S. Indrapuri, District Rohtas.

Opp. Party no.1... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Ashok Priyadarshi Mr. Sandeep Jha, Advocates
For the Respondent/s	:	Mr. Rajen Sahay, Advocate

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CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT

Date : 27-08-2019

Heard parties.

2. This miscellaneous appeal has been filed on behalf
of the appellant/ National Insurance Company Ltd. against the
judgment dated 21.3.2016 and award dated 5.4.2016 passed by



Additional District Judge-II-cum-Motor Accident Claims Tribunal, Rohtas in Claim case no.12 of 2014 by which the claims tribunal has awarded compensation of Rs.43,61,096/- to the claimants.

3. Claimant Savitri Devi and her children have filed claim case on account of death of Bindeshwari Prasad Prajapati, husband of claimant no.1 in a motor accident. Deceased was working as peon in the office of District Panchayat Officer and was returning home after duty hours when a motorcycle bearing registration No. BR-24F/1801 dashed against him as a result of which, he was seriously injured from where, he was rushed to hospital and died during treatment on 13.12.2013.

4. FIR was instituted giving rise to Sasaram (Muffasil) P.S. case No.1321/13 and after investigation, police submitted charge-sheet against the rider of the offending vehicle under Sections 279 and 304A of IPC. The offending motorcycle was insured on the date of accident with the National Insurance Company Limited.

5. According to claim petition, the income of the deceased was Rs.22,060/- per month and he was aged about 48 years and was a government servant. Claimants had spent rupees five lacs fifty thousand on the treatment of deceased and



has claimed compensation of rupees forty lacs.

6. The claims tribunal has assessed the age of deceased as 49 years and his monthly income as Rs.22,060/- and has added 30% as future prospects and assessed monthly income to be Rs.28,678/- and as number of dependants were more than six, has deducted 1/5th towards his personal expenses which comes to Rs.5,735/- and has assessed loss of dependency per month as Rs.22,942/- and loss of annual dependency to be Rs.2,75,304/- and has applied multiplier of 13 and has assessed compensation to be Rs.35,78,952/- and, thereafter, has awarded rupees one lac to the wife for loss of consortium and loss of estate, rupees two lacs to the daughter for loss of love and affection, rupees one lac to the wife for loss of love and affection, rupees one lac to the minor sons for loss of love and affection and, thereafter, Rs.25,000/- for funeral expenses and Rs.1,57,000/- for medical expenses and further rupees one lac for pain and suffering and has quantified the total compensation amount as Rs.43,61,096/- with 10% simple interest from the date of filing of case till its payment.

7. Aggrieved by the quantum of compensation to be excessive, National Insurance Company Ltd. has filed this appeal to reduce the compensation amount.



8. This Court is not inclined to interfere in the amount of compensation of Rs.35,78,952/- and Rs.1,57,144/- incurred as medical expenses on the deceased, as determined by the claims tribunal which appears to be by and large to be correct. However, claims tribunal has granted excessive compensation under conventional heads, i.e., six lacs twenty five thousand which is reduced as Rs.15,000/- for funeral expenses, Rs.15,000/- for loss of estate, Rs.40,000/- for loss of consortium. Further rupees one lac is awarded for loss of love and affection and rupees one lac for pain and suffering.

9. Accordingly, the compensation amount is reduced and modified as Rs.40,06,096/- for which claimants are entitled with interest @ 6% per annum from the date of filing of claim application till its realization.

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

11. The statutory amount of Rs. 25,000/- deposited by the appellant-insurance company at the time of filing of appeal, be remitted to the claimants through electronic mode upon furnishing the details in the format to be provided by the Office to the learned counsel for the claimants, who shall fill the format and submit same in the Office so that amount could be



transferred in the bank accounts of the claimants which shall be adjustable in the compensation amount.

(S. Kumar, J)

Sanjay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	09.12.2019
Transmission Date	NA

