

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.449 of 2016

1. Arun Kumar Son of Ram Layak Mehta
2. Pappu Kumar m/s/o Arun Kumar-minor/u/g/o his father, well wisher and next friend.
Both resident of village-Pachrukhi, P.O.-Chiraili, P.S.-Khidersarai, District-Gaya. Appellant/s

Versus

1. Arbind Kumar son of Late Kishore Prasad Mahto owner of Tractor No.UP-79/2740, resident of village-Pir Barauna, P.S.-Daniyanwan, District-Patna-800001.
2. The National Insurance C. Ltd. through Branch Manager, Gauri Niwas, Bharaopar, Biharsharif, Nalanda. Respondent/s

Appearance :

For the Appellant/s : Mr.Rabi Bhushan Prasad No. 1, Adv
For the Respondent/s : Mr.Ashok Priyadarshi, Adv

CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL JUDGMENT

Date : 20-02-2019

Heard learned counsel for the parties.

2. The claimants are not satisfied with the adequacy of the award made on 28.09.2015 in Claim Case No.13 of 2009 by the Motor Accident Claim Tribunal, Nalanda.

3. Learned counsel for the National Insurance Company Ltd. raised preliminary objection against the maintainability of this appeal on the ground that perusal of the impugned order would reveal that the claimants claimed compensation of Rs. Three Lacs. The Tribunal awarded the said amount alongwith 7% interest per annum and the Insurer had already paid the same to the claimants.

4. The preliminary objection is turned out for the reason that neither the Tribunal is bound to go by the claimed amount nor this Court is bound by the same rather the courts are



required to decide just and reasonable compensation payable to the dependants of the deceased.

5. The impugned order would reveal that no method of calculation of compensation has been adopted by the learned Tribunal to objectively satisfy the appellate court regarding adequacy of the compensation awarded. Therefore, the impugned award is hereby set aside and the matter is remitted back to the learned Tribunal with a direction to calculate the compensation according to law within three months, after going through the judgment of the Hon'ble Supreme Court in **Sarla Verma & Ors Vs.Delhi Transport Corporation and Anr**, reported in **2009(6) SCC 121** as well as by the Constitution Bench of the Hon'ble Supreme Court in **National Insurance Company Ltd. Vs. Pranay Sethi**, reported in **(2017)16 S.C.C. 680** and other judgments applicable in this matter.

6. Accordingly, this appeal stands allowed.

(Birendra Kumar, J)

Nitesh/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	26.02.2019.
Transmission Date	NA

