

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.80 of 2013

Reliance General Insurance Co. Ltd. Through its Manager, Himalaya House,
8th Floor, 38B, JL Nehru Road, Kolkata, West Bengal.

... .. Appellant/s

Versus

1. Roushan Khatoon W/O Late Motiur Rehman R/O Village Post Office - Basuki Bihari, P.S. Madhawpur, District - Madhubani
2. Farzana Khatoon (Minor - Age 17 Year), D/O Late Motiur Rehman R/O Village Post Office - Basuki Bihari, P.S. Madhawpur, District - Madhubani
3. Md. Badruddin (Minor - Age - 9 Year) S/O Late Motiur Rehman R/O Village Post Office - Basuki Bihari, P.S. Madhawpur, District - Madhubani
4. Dinesh Kumar Soni S/O Mohan Lal Soni R/O 50/1/B, B L Ghosh Road, Ariadhana, P.S. Belghoria, District - Kolkata - 7700057, West Bengal
5. Harendra Kumar Roy S/O Jagdish Roy R/O Village - Manpura, P.O. Mahua, District - Vaishali, Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Alok Kumar @ Alok Kr Shahi, Adv

For the Respondent/s : Mrs. Rekha Prasad, Adv

CORAM: HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

Date : 21-10-2019

Heard learned counsel for the parties.

2. This appeal under Section 173 of the M.V. Act, 1988, has been filed by the appellant-Reliance General Insurance Company Ltd., against the judgment/Award dated 29.04.2011/31.07.2012 passed by Additional District Judge, FTC-III-cum-MACT, Darbhanga, in Claim Case No. 37 of 2008, by which the learned Tribunal has granted compensation of Rs. 24,25,344/- to the Claimants with interest @ 9 per cent per annum, which according to the appellant-Insurance Company is excessive.



3. Claimants are widow and children of deceased who died in motor accident on 10.01.2008 while the deceased was riding on a motorcycle when the motorcycle was dashed by Truck bearing registration No. WB 29 5873 as a result of said accident husband of the Claimant no. 1 died on the spot. Claimant filed an application under Section 166 of the Motor Vehicles Act for grant of compensation of Rs. 26,62,904/- on account of death of husband of Claimant No. 1.

4. FIR was instituted and after investigation, police found the allegation against the Driver of the offending Truck to be true and submitted chargesheet against him. The Tribunal assessed the monthly income of deceased on the basis of salary certificate as Rs. 19,968/- per month and his age as 40 years and applied multiplier of 16 and quantified the amount of compensation as Rs. 24,25,344/-.

5. Aggrieved by the quantum of compensation amount the Insurance company has filed this appeal on quantum of compensation. It has been submitted by learned counsel for the appellant that the salary certificate which has been marked as Exhibit-1 before the Tribunal is without any signature of the employer and as such not being admissible and the Tribunal ought not to have relied upon said salary certificate to assess the



monthly income of the deceased. In support of monthly income of deceased the Claimants has examined four witnesses.

6. Witness No. 1 is Ataur Rahman who has stated in his examination-in-chief that the deceased was Foreman employed in Saudi Arabia and has monthly income of 1664 Riyal. He is a distant relative and eye witness of the occurrence. He has been cross-examined by the other side on monthly income also but there is nothing in his cross-examination to disbelieve him.

7. Similar statement was made by Md. Badrul Witness No. 2 on behalf of Claimants who has also stated that the deceased was working in Saad Trading and Construction Company, Saudi Arabia, on the post of Foreman and his monthly income was 1664 Riyal. However, in his cross-examination he has admitted that he had never been to Saudi Arabia.

8. Raushan Khatoon has been examined as Witness No. 3 in which she has also supported her claim case as stated in claim petition in which she has also disclosed the monthly income of deceased to be 1664 Riyal.

9. Md. Naseem Ahmad has been examined as Witness No. 4 on behalf of Claimant, who has also supported the claim



case of Claimant with respect to monthly income of deceased who has also proved the salary certificate which has been marked as Exhibit-1 by the Tribunal. He has further stated that on 10.01.2008 on the date of occurrence he was in Saudi Arabia as such could not attend last rites and deceased was his brother-in-law and was going on his motorcycle from his house. Deceased was employed in Saad Trading and Construction Company, Saudi Arabia, on the post of Foreman. In his cross-examination he has stated that he is also employed in Saudi Arabia and has also stated that the salary certificate of deceased produced before the Tribunal was issued to the deceased in his presence.

10. After hearing learned counsel for the appellant-insurance company and Claimants-respondents, this Court does not find any error or infirmity in assessing monthly income and annual income of the deceased by the Claims Tribunal, as such is not inclined to interfere in the Award granted by the Claims Tribunal.

11. Accordingly this miscellaneous appeal is dismissed.

12. 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-appellants through electronic mode upon furnishing the details in the format to be provided by the Office to the learned counsel for the Claimants-appellants, who shall fill the format and submit the same in the Office so that amount could be transferred in the bank account(s) of the claimants which shall be adjustable in the compensation amount.

LCR of this case be returned to the concerned Tribunal forthwith.

(S. Kumar, J)

ranjan/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	15.12.2019
Transmission Date	NA

