

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.1337 of 2016

1. Meena Devi, W/o- Late Jagdish Bhagat
2. Dheeraj Kumar, S/o- Late Jagdish Bhagat
3. Sarita Kumari, D/o- Late Jagdish Bhagat
4. Anita Kumari, D/o- Late Jagdish Bhagat
5. Gunja Kumari, D/o- Late Jagdish Bhagat
6. Vikky Kumari, D/o- Late Jagdish Bhagat
7. Rabina Kumar, S/o- Late Jagdish Bhagat,
Appellants No.-6 is minor daughter and Appellant No.-7 is minor son
of the deceased and represented through their mother and natural guardian
Meena Devi (appellant no.1)
All are Residents of Village- Gadhochak Kripal Tola, P.O. and P.S.-
Fatuha, District- Patna.

... .. Appellant/s

Versus

1. Vijay Kumar, S/o- Ashok Kumar, Residing at c/o- Janak Sah Lane
Purandarpur, Brahmdeo Bhawan Road Jakkanpur, P.S.- Jakkanpur, District-
Patna,
Owner of Jeep Taxi No. BR- 1AP- 2796.
2. The Branch Manager, The Oriental Insurance Co. Ltd. at Branch Office No.
vi, South Gandhi Maidan, Patna- 800001 (Insurer of Jeep Taxi No. BR-1AP-
2796)

...Opp. Parties / Respondent/s

Appearance :

For the Appellant/s : Ms. Sarita Bajaj
For the Respondent/s : Mr. Sanjay Singh Sc

CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT

Date : 16-07-2019

Heard parties.

2. This appeal under Section 173 of M.V. Act, 1988
has been filed on behalf of claimants/appellants for
enhancement of compensation amount awarded by the
judgment dated 15.06.2016 and award dated 21.08.2016 passed
by Additional District Judge- VIII, Patna in claim case no.417 /



2009 by which the learned claims tribunal has granted compensation of Rs.4,35,600/- with 7% interest per annum to the claimants and directed the Oriental Insurance Company Limited to pay the compensation amount to the claimants/appellants.

3. Claims tribunal has assessed the amount of compensation assessing the age of the deceased to be 42 years as per postmortem report and has considered deceased to be skilled labourer and on the basis of notification issued by the State government dated 03.11.2007 with respect to minimum wages has taken Rs.150/- as daily income and 26 days as days of engagement and has assessed annual income of deceased to be Rs.46,800/- and has applied multiplier of 13 and found compensation amount to be Rs.6,08,400/- and has deducted 1/3rd towards his personal expenses and has found loss of dependency to be Rs.4,05,600/- and, thereafter, has granted additional compensation under conventional heads as Rs.25,000/- for funeral expenses and Rs. 5,000/- for loss of consortium and has quantified compensation amount to be Rs.4,35,600/- as just and proper and has directed the insurance company to pay the compensation amount of Rs.3,85,600/- after deducting Rs.50,000/- paid as interim compensation with



interest rate @ 7% per annum from the date of filing of claim application till its realization.

4. Counsel for the appellants has stated that since the number of dependants are seven as such deduction towards personal expenses of deceased is to be 1/5th and as deceased was of 42 years of age, appropriate multiplier would be 14. In view of law laid down in Apex Court in the case of *National Insurance Company Ltd. vs. Pranay Sethi & Ors* since reported in (2017) 16 SCC 680., 25% of income is to be added as future prospects.

5. After hearing the parties and perusing the order passed by the claims tribunal, the quantum of compensation is reassessed by this court on admitted facts:-

Annual income	- Rs.40,800/-
Future prospect (25%)	- Rs.51,000/-
personal expenses (1/5th)	-Rs. 10,200/-
Loss of dependency	- Rs. 40,800/-
Multiplier (14)	-Rs.5,71,200/-
balance conventional heads (70,000-30,000)	- Rs.40,000/-
Total compensation	- Rs.6,11,200/-

6. Insurance Company is directed to pay the remaining compensation amount after deducting compensation



amount already paid from Rs.6,11,200/- (rupees six lacs eleven thousand two hundred only) to the claimants with 7% interest per annum on the remaining amount of the compensation from the date of filing of claim application till its payment within two months from the date of receipt/production of copy of order passed by this Court.

7. Miscellaneous appeal stands disposed of.

(S. Kumar, J)

Sanjay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	03.10.2019
Transmission Date	NA

