IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.83 of 2016

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United India Insurance Company Ltd., At Kapasiya Chowk, Begusarai District- Begusarai appearing through the Manager & Authorised Signatory of United India Insurance Company Limited, Regional Office, Hotel Chanakya Complex, R- Block, Patna.

... ... Appellant/s

Versus

1. Narayan Paswan, son of Late Nevi Paswan
2. Dukhani Devi, wife of Narayan Paswan
3. Rohit Paswan aged bout 14 years Minor Son of Narayan Paswan, All residents of village- Sanjat, P.S.- Bhagwanpur, District- Begusarai
4. Mustakim Khan, son of Mustafa Khan C 19/57 A- 1, Kashi Vidyapith, Varanasi (Owner of UP 65 AR- 0765).
5. Singheshwar Yadav @ Tulsi Yadav, son of Shrawan Yadav, resident of village- Yogi Dih, P.S.- Khidawandpur, District- Begusarai

... ... Respondent/s

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Appearance :
For the Appellant/s : Mr.Harendra Kumar, Adv.
For the Respondent/s : Mr. Nakul Kumar Jamuar, Adv

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CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT
Date : 28-06-2019

Heard the parties.

2. Being aggrieved by judgment dated 26.05.2015 and Award dated 11.06.2015 passed by learned Additional District Judge-VII-cum-Motor Accident Claims Tribunal, Begusarai in Claim Case No. 42/08 appellant United India Insurance Company has filed this appeal against quantum of compensation of Rs. 7,90,000/- with interest @ 8 per cent per annum awarded

to the Claimants.

3. Claimants are parents and brother of deceased Balram Paswan who died in a motor accident on 26.10.2007 when a pick up van bearing No. UP-65AR-0765 dashed against him which was being driven in a rash and negligent manner, for which FIR was instituted giving rise to Bibhutipur P.S. Case No. 184 of 2007 for the offences under Section 279 and 304A of IPC against the driver of the offending vehicle. After investigation police found the case of negligent and rash driving by the driver of the vehicle, true and submitted chargesheet against driver of the offending vehicle. Deceased was working as Raj Mistri and was aged 21 years and claimant’s claim compensation of Rs. 7,65,000/-.

4. Notices were issued to opposite parties but in spite of valid service of notice opposite party No. 1 and opposite party No. 2 who are the owner and driver of offending vehicle did not appear, however opposite party No. 3 the Insurance Company appeared and contested the case and filed its written statement in which they denied the claim of claimants.

5. On the basis of pleadings, tribunal framed eight issues for its determination. In support of their claim case three witnesses were examined by the claimants and seven documents

were produced. Exhibit-1 is the certified copy of FIR, Exhibit-2 is certified copy of final report, Exhit-3 is photocopy of postmortem report, Exhibit-4 is photocopy of certificate of registration, Exhibit-5 is photocopy of Insurance Policy, Exhibit-6 is photocopy of driving licence and Exhibit-7 is photocopy of fitness certificate.

6. Opposite party Insurance Company did not produce any oral or documentary evidence to deny the claim of claimants.

7. Claims tribunal held that deceased died in a motor accident by rash and negligent driving by the driver of the offending vehicle and the offending vehicle at the time of accident was insured by United India Insurance Company Ltd. and driver of the offending vehicle had a valid and effective driving licence, as such the Insurance Company is liable to indemnify the owner of the vehicle and pay the compensation amount to the claimants.

8. Tribunal has held that deceased was aged 21 years at the time of death and was earning Rs. 125 per day as daily wager and his monthly income will be Rs. 3750/- and annual income Rs. 45000/- and appropriate multiplier will be 17 and has held claimants to be entitled for compensation of Rs.

7,65,000/-. The tribunal has further awarded additional compensation under conventional head, Rs. 5000/- as funeral expenses, loss of consortium Rs. 10,000/- and loss of estate Rs. 10,000/- and has awarded total compensation amount as Rs. 7,90,000/- with 8% interest per annum from the date of filing of claim petition till its realization.

9. It has been submitted on behalf of counsel for the appellant that Tribunal ought to have deducted 50% as personal expenses of deceased as he was unmarried as such the quantum of compensation has become excessive. Learned counsel for the appellant has further submitted that tribunal has assessed the annual income as 45,000/- which is on higher side. However, this Court finds that minimum annual income in all cases even in cases of non earning persons is Rs. 36,000/-, deceased was a semi-skilled labourer as such, assessment of annual income of the deceased as Rs. 45,000/- by the tribunal is reasonable and realistic.

10. This Court re-assesses the amount of compensation for which claimants are entitled as per judgment and order passed 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. 45,000/-
Future prospect(40%)	Rs. 18000
Total income	Rs. 63,000/-
Personal expenses(50%)	Rs. 31,500/-
Loss of dependency	Rs. 31,500/-
Multiplier (18)	Rs. 5,67,000/-
Loss of love & affection	Rs. 40,000/-
Loss of estate	Rs. 15,000/-
Funeral expenses	Rs. 15,000/-
Total	Rs. 6,37,000/-
Interim compensation granted (Rs. 50,000)	

Payable compensation Rs. 5,87,000/- (Rupees Five Lacs Eighty Seven Thousand only).

11. The award granted by the Tribunal is modified to the extent that claimants are entitled for compensation of Rs. 5,87,000/- (Rupees Five Lacs Eighty Seven Thousand only). The insurance Company is directed to pay the compensation amount of Rs. 5,87,000/- (Rupees Five Lacs Eighty Seven Thousand only) with interest @ 8% per annum to the claimants from the date of filing of claim petition till its realization within three months from the date of receipt/production of a copy of order passed by this Court.

12. The statutory amount of Rs. 25,000/- which was deposited by the Insurance Company at the time of filing of this appeal, a cheque of which be prepared in the name of Claimant

No. 2 and send to the concerned Tribunal for its payment to Claimant No. 2 which is adjustable in the compensation amount.

13. The miscellaneous appeal is disposed of.

14. LCR of this case be returned to the court concerned forthwith.

(S. Kumar, J)

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