

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.524 of 2016

1. Rehana Khatoon W/o Late Bashiruddin
2. Shahid S/o Late Bashiruddin
3. Trana D/o Late Bashiruddin
4. Najrana D/o Late Bashiruddin
5. Md. Rahimuddin S/o Late Jahiruddin
All resident of village + P.O. Amrakh, P.S. Maniyari, Distt. - Muzaffarpur

... .. Appellant/s

Versus

1. Hari Shankar Prasad S/o Thakur Prasad Srivastava resident of village - Chhota Bariarpur, P.O. + P.S. Motihari, Distt. - East Champaran
2. Branch Manager, The Oriental Insurance Co. Ltd. Branch Motihari East Champaran

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Sunil Kumar Pandey, Advocate
For the Respondent/s	:	Mr. Sanjay Singh, Advocate
For Respondent No. 2	:	Mr. Ashok Priyadarshi, Advocate

CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL JUDGMENT

Date : 05-02-2019

Heard learned counsel for the parties.

2. This appeal is barred by limitation of ten months and three days. The delay is explained in I.A. No.6650 of 2017. Hence, the delay in filing of this appeal is condoned. With the consent of the parties, this appeal is being disposed of at this stage itself.

3. The claimants are not satisfied with the judgment and award dated 31.03.2015 and 10.04.2015 passed by the 9th Additional Motor Vehicles Accident Claim Tribunal, Muzaffarpur, in Claim Case No.75 of 2007. The dissatisfaction



is to the extent of quantum decided by the Tribunal. Hence, this appeal.

4. First submission is that deceased Bashiruddin died leaving behind five dependents, who are wife and children of Md. Basiruddin. Hence, the Tribunal should have deducted 1/4th for the personal expenses of the deceased and it deducted 1/3rd against the ratio decided in **Sarla Verma and Others Vs. Delhi Transport Corporation and Another** reported in (2009) 6 SCC 121.

5. Learned counsel for the insurer does not dispute the aforesaid factual position.

6. Since, the claimants had not produced any evidence of income of the deceased. The Tribunal had rightly taken Rs.100 per day as multiplicand. The Tribunal has correctly chosen the multiplier of 16 considering the age of deceased which was 37 years. Thus, the multiplicand comes to Rs.36,000/- per year. After deduction of 1/4th for personal expenses of the deceased, the amount comes to Rs.27,000/- and after multiplication of Rs.27,000/- with sixteen, the loss of dependency is calculated at Rs.4,32,000/-.

7. The Tribunal had awarded Rs.5,000/- for funeral expenses and Rs.5,000/- for loss of consortium. The accident



was of 2007, hence, this Court is not inclined to interfere with the said amount.

8. Accordingly, the total payable compensation is calculated at Rs.4,42,000/- which is payable along with 6% per annum simple interest from the date of application for compensation. The insurer shall pay the amount after deducting the amount already paid to the claimants, if any.

9. With the aforesaid modification, this appeal stands partly allowed.

(Birendra Kumar, J)

Mkr./-

AFR/NAFR	NAFR
CAV DATE	NA
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