

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.964 of 2016

Reliance General Insurance Co. Ltd. Through its Manager Legal, 38B,
Jawahar Lal Nehru Road, (next to American Centre) Himalaya House, 8th
Floor, Calcutta-700001

... .. Appellant/s

Versus

1. Sulochna Devi and Ors W/o Late Ram Sevak Choudhary @ Ram Sevak Jaiswal,
2. Chandan Kumar, S/o Late Ram Sevak Choudhary @ Ram Sevak Jaiswal,
3. Harinandan, S/o Late Ram Sevak Choudhary @ Ram Sevak Jaiswal,
4. Niranjana Kumar, S/o Late Ram Sevak Choudhary @ Ram Sevak Jaiswal,
5. Nitish Kumar, S/o Late Ram Sevak Choudhary @ Ram Sevak Jaiswal,
6. Chandani Kumari, D/o Late Ram Sevak Choudhary @ Ram Sevak Jaiswal,
7. Birendra Kumar s/o Late Ram Sevak choudhary @ Ram Sevak Jaiswal
8. Rajeev Kumar, S/o Bineshwary Prasad, Resident of Village- Rahimpur, Post-Heeralal Tol Sahebpur Kamal, P.S.- Sahebpur Kamal, District- Begusarai.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Alok Kumar @ Alok Kr Shahi, Adv
For the Respondent no. 1 to 7: Mr.Vivekanand Vivek, Adv

CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT

Date : 17-07-2019

Heard learned counsel for the parties.

This appeal has been filed under Section 173 of the M.V. Act, 1988, by the Appellant-Insurance Company for setting aside the order dated 23.12.2015 and Award dated 06.01.2016 passed by Additional District Judge-I-cum-MACT, Begusarai, in Claim Case No. 72 of 2012, by which learned Tribunal has directed Appellant to pay sum of Rs. 11,40,000/- to the Claimants.



Claimants-respondents who are widow and children of deceased had filed a claim petition under Section 166 of the M.V. Act claiming compensation of Rs 24,51,000/- on account of death of Ram Sewak Choudhary in a motor accident. It has been stated that on 04.03.2012 at 5:00 am the Informant who is the local chowkidar found two Trucks having collided head on with one another and both the drivers of the Trucks were dead. The head on collision of both Trucks took place at midnight.

On notice opposite parties appeared and W.S was filed on behalf of Opposite Party No. 2 and 3 Reliance General Insurance Company Ltd., and on the basis of pleadings of parties, the Claims Tribunal framed five issues for its determination.

Three witnesses were examined on behalf of Claimants and 24 documents were produced which were marked as Exhibit-1 to Exhibit-24.

Claims Tribunal on the basis of evidence led by the parties found deceased to be of 35 years old on the date of accident and was owner cum driver of the vehicle and was an Income Tax Payee and assessed Rs. 10,000/- as his income per month and thereafter has deducted 1/3rd towards his personal expenses and found loss of dependency to be Rs. 80,000/- per



annum and applied 14 as a multiplier and assessed compensation as Rs. 11,20,000/- and thereafter under conventional heads has granted Rs. 10,000/- as funeral expenses and Rs. 10,000/- for loss of consortium and quantified the compensation amount as Rs. 11,40,000/- and directed the Reliance General Insurance Company to pay the compensation amount within two months from the date of order passed by the Tribunal failing which Insurance Company shall be liable to pay interest @ 9 per cent per annum from the date of filing of claim application.

The Award has been challenged on behalf of Insurance Company on the ground that since it was a head on collision for which the deceased was equally responsible and as such 50 per cent of the compensation amount ought to have been reduced for contributing negligence and as such 50 per cent of the compensation amount as calculated by the Claims Tribunal was payable to the Claimants which comes to Rs. 5,60,000/- and Rs. 20,000/- has been granted under conventional heads as such compensation amount for which Claimants are entitled will be Rs. 5,80,000/-.

On the other hand defending the compensation amount the learned counsel for the Claimant has stated that the Claims



Tribunal has not granted any future prospect while 40 per cent was to be added as future prospect. The number of dependants is more than three as such the deduction towards personal expenses should be 1/5th whereas Tribunal has deducted 1/3rd. The age of the deceased was 35 years and applying the ratio as laid down in Sarla Verma Case, the appropriate multiplier would be 16 and compensation amount will be Rs. 21,50,400/- and even 50 per cent is reduced towards contributory negligence the payable compensation amount would be Rs. 10,75,200/- and thereafter Claimants are entitled for compensation of Rs. 70,000/- under conventional heads and the compensation amount will be Rs. 11,45,200/- upon which interest @ 9 per cent per annum is to be paid from the date of application till its payment.

After hearing the learned counsel for the Appellant as well as learned counsel for the Claimants, this Court finds that the amount of compensation of Rs. 11,40,000/- as quantified by the Claims Tribunal does not require any interference, accordingly, the miscellaneous appeal filed by the Appellant-insurance company is dismissed. Appellant-Insurance Company is directed to pay the compensation amount as determined by the Claims Tribunal with interest @ 9 per cent per annum from



the date of filing of claim application till its payment.

Statutory amount of Rs. 25,000/- which has been deposited by the Appellant-Insurance Company at the time of filing of appeal, same may be remitted in its account through electronic mode and for which office will provide format to the learned counsel for the Insurance Company, who shall fill the format and submit it in the Office.

The Miscellaneous Appeal is disposed of.

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

(S. Kumar, J)

ranjan/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	11.10.2019
Transmission Date	NA

