

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Miscellaneous Appeal No.523 of 2016**

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1. Sabita Rani W/o Late Ramvilash Prasad
  2. Shivani D/o Late Ramvilash Prasad
  3. Chaturbhuj Mahto S/o Late Saryug Mahto
  4. Shiv Kumari Devi W/o Chaturbhuj Mahto
- All resident of Village+ P.O. Amarakh, P.S. - Maniyari Distt.-  
Muzafarpur.

... .. Appellant/s

Versus

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

... .. Respondent/s

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**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  |

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**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. 6649 of 2017. Hence, the delay is condoned.

3. The appellants were claimants in Claim Case No. 74 of 2007 decided along with other claim petitions. There is no dispute at the bar that the deceased had left four dependents, who are claimants herein,  $\frac{1}{4}^{\text{th}}$  deduction is permissible and not  $\frac{1}{3}^{\text{rd}}$  as held by the Hon'ble Supreme Court in *Sarla Verma*



*and Others Vs. Delhi Transport Corporation and Another reported in (2009) 6 SCC 121.* The Tribunal had wrongly deducted 1/3rd. Further there is no dispute that the deceased was a Class-II government servant. Hence, the claimants were entitled for the amount against future prospects of the deceased also.

4. Finding aforesaid infirmity with the impugned order, the same is set aside and the matter is remitted back to the Tribunal to decide the claim afresh after going through the judgment of the Supreme Court in **Sarla Verma's case** (supra). Since the dispute is only on calculation, the Tribunal is expected to decide the matter within two months.

5. With the aforesaid observation, this appeal is disposed of.

**(Birendra Kumar, J)**

Mkr./Banti-

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| AFR/NAFR          | NAFR       |
| CAV DATE          | NA         |
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