IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.557 of 2016

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Branch Manager National Insurance Company Ltd. , East of Municipal Chowk, Chaprs, Saran through its authorized signatory of Regiional Office, national Insurance Company Ltd. 4th floor, Sone Bhawan, R-Block, Patna.

... ...O.P. no. 1- Appellant/s

Versus

1. Shushila Devi and Ors W/o Late Kameshwar Prasad Yadav, of Village- Pahiyan, P.S.- Revelganj, District- Saran.

…..Claimant-respondent

2. Bipin Bihari Singh, S/o Late Tulsi Singh, of Village- Singar Tola, P.S.- Revelganj, District- Saran Chapra.

…….O.P. No. 2 Respondent.

3. Vijendra Kumar Yadav, S/o Late Kameshwar Prasad Yadav,
4. Santosh Kumar, S/o Late Kameshwar Prasad Yadav,
5. Babita Kumar, D/o Late Kameshwar Prasad Yadav,
6. Ranju Kumari, D/o Late Kameshwar Prasad Yadav, All 3 to 6 are of Village- Pahiyan, P.S.- Revelganj, District- Saran.
7. Sita Kumari, W/o Lalan Rai, D/o Late Kameshwar Prasad Yadav, of Village- Pir Market, P.S.- Maker, District- Saran.
8. Gita Kumari, W/o Shankar Yadav, D/o Late Kameshwar Prasad Yadav, R/o Village- Mahuwa Tola, P.S.- Khaira, District- Saran.

... ... Respondent/s

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CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT
Date : 08-07-2019

Heard the parties.

2. This appeal has been filed under Section 173 of M.V. Act by appellant National Insurance Company Ltd. for setting

aside the judgment dated 08.12.2015 and Award dated 05.01.2016 passed by ADJ-XI-cum-Motor Accident Claims Tribunal, Saran at Chapra in Claim Case No. 62 of 2007/ 286 of 2014, by which the Claims Tribunal has awarded Rs. 12,76,803/- as compensation amount with interest @ 7% per annum from the date of filing of claim application till its payment.

3. Claimant-Sushila Devi had filed Claim Case before the Claims Tribunal for grant of compensation on account of death of her husband Kameshwar Prasad Yadav in a motor accident caused by Commander Jeep bearing registration no. BR-4C-2629. It is stated in claim petition that on 18.08.2007 at about 5:00 am near Chapra Railway Station the husband of the claimant boarded the offending vehicle but the same was being driven in a rash and negligent manner as a result of which the vehicle turned turtle and husband of the Claimant got injured and subsequently died. Her husband was a Railway Loco Pilot and posted at Barauni Junction and his monthly income was Rs. 15,763/- and he was aged about 55 Years.

4. Upon notice Opposite Party No. 1-Insurance Company appeared and filed its written statement stating therein that . Driver has not been made party nor driving licence was

produced and has denied its liability to pay the compensation.

5. On the basis of rival pleadings of the parties, Tribunal framed four issues for its determination.

6. In support of her claim case, Claimant was examined as witness no. 1 and she also proved the documentary evidence produced before the Tribunal which were marked as Exhibits. Exhibit-1 is the certified copy of FIR, Exhibit-2 is the certified copy of chargesheet, Exhibit-3 is the post mortem report, Exhibit-4 is the photocopy of insurance policy, Exhibit-5 is the registration certification of offending jeep, Exhibit-6 is the identity card of the deceased, Exhibit-7 is the pay slip, Exhibit-8 is the family pension sanction order, Exhibit-9 is the pension paper, Exhibit-10 is the letter of Chief Accountant.

7. No oral or documentary evidence has been adduced on behalf of opposite party.

8. The Tribunal has held that due to rash and negligent driving of the driver of the offending vehicle resulted in accident in which husband of the claimant died. The offending vehicle was insured with National Insurance Company Ltd at the time of accident, as such the Insurance Company is liable to pay the compensation amount.

9. The Tribunal has assessed the age of deceased to be

56 years and his monthly income as Rs. 15,763/- and annual income to be Rs. 1,89,156/-. The number of dependents were widow, four daughters and two sons and has deduced 1/4th from annual income towards his personal and living expenses and has assessed loss of dependency to be Rs. 1,41,867/- and has applied 9 to be appropriate multiplier and accordingly, has assessed the amount of compensation to be Rs. 12,76,803/- and under conventional heads has granted Rs. 20,000/- for funeral expenses, Rs. 30,000/- for loss of consortium and has quantified total compensation amount to be Rs. 13,26,803/- and since Rs. 50,000/- has already been paid as interim compensation, has directed Insurance Company to make payment of Rs. 12,76,803/- with interest @ 7 per cent per annum from the date of application till its payment.

10. After hearing learned counsel for the parties and perusing the judgment and award passed by the Claims Tribunal, this Court does not find any error or infirmity in the order passed by the Claims Tribunal. There is no merit in this appeal, and same is accordingly, dismissed.

11. The statutory amount of Rs. 25,000/- deposited by the appellant at the time of filing of appeal, a cheque for the same shall be prepared in the name of claimant and sent to the

concerned Tribunal for its payment to the claimant, which shall be adjustable in the compensation amount.

The miscellaneous appeal is disposed of.

(S. Kumar, J)

ranjan/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	06.09.2019
Transmission Date	NA