

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.732 of 2017

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Chairman Bajaj Allianz General Insurance Company Ltd. Registered and Head Office G.E. Plaza Airport Road Yarwa Pune through Sri Shailesh Anand Senior Executive Claims Legal Bajaj Allianz General Insurance Company Ltd N- A/7 Irrigation Department Employees Co-Operative Society Chitragupta Nagar Kankarbagh P.S. Kankarbagh Patna.

... .. Appellant/s

Versus

Julekha, Wife of Late Md. Khalil, resident of Village- Laxmipur Chandi Asthan P.S. Kumar Khand District Madhepura.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr.Ashok Priyadarshi, Adv.

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

Date : 03-09-2019

I.A. No. 8660 of 2017:

Heard.

This interlocutory application has been filed for condoning the delay of 293 days in preferring the present appeal.

For the reasons mentioned in this interlocutory application, this Court is satisfied that the appellants were prevented for sufficient reasons from preferring this miscellaneous appeal within time.

As a result, this interlocutory application is allowed and the delay in filing this miscellaneous appeal is hereby condoned.



M.A. No.732 of 2017:

Heard the parties.

2. This appeal under Section 173 of Motor Vehicle Act has been filed on behalf of appellant/insurance company against the judgment dated 30.07.2016 and Award dated 03.04.2017 passed by District Judge-cum-Motor Vehicles Claims Tribunal, Madhepura in M.V. Claim Case No. 39 of 2013 (CIS No. 507 of 2013), by which the claims tribunal has awarded a sum of Rs. 14,80,800/- (rupees fourteen lacs eighty thousand eight hundred) as compensation with interest @ 9% per annum from the date of filing of claim case till its realization.

3. The insurance company is aggrieved by the quantum of compensation granted to the claimant on the ground that tribunal has committed an error while assessing the amount of compensation in which the monthly income of the deceased has been assessed on the basis of income of Rs. 350/- per day although as per the Minimum Wages Act as notified by the State Government the minimum wages of a skilled labour is Rs. 205/- per day.

4. Counsel for the appellant/insurance company has also assailed the finding of the tribunal on the ground that



under the conventional heads, the tribunal has granted additional compensation under the head of loss of estate, loss of consortium and funeral expenses to the extent of Rs. 2,25,000/- which is in teeth of 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* in which compensation under conventional heads of loss of consortium, loss of estate and funeral expenses has been quantified as Rs.70,000/- in all claim cases.

5. After hearing the counsel for the appellant/insurance company and claimant/respondent, this court is not inclined to interfere into the assessment of the tribunal with respect to monthly and annual income of claimant as same has been assessed by the tribunal on the basis of evidence and material placed before it and deceased was a skilled labour and working as a mason. However, the additional compensation granted under the conventional heads of Rs. 2,25,000/- is in excess to the law laid down by the Apex court as referred above, accordingly, same is reduced to Rs. 70,000/-. The judgment and award of the tribunal is modified to the said extent.

6. The statutory amount of Rs. 25,000/- deposited



by the appellant-insurance company at the time of filing of appeal, a cheque for the same would be prepared in the name of claimant and be send to the concerned Tribunal for its onward payment to the claimant, which shall be adjusted in the claim amount.

7. This appeal is disposed of.

(S. Kumar, J)

Rajiv/-

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

