IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.241 of 2016

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1. Lila Devi W/o. Late Mahesh Thakur
2. Gita Devi Minor D/o. Late Mahesh Thakur (Appellant no. 2. under the Guardianship of her Mother appellant no.1) R/o. Vill- Bajitpur, P.O. Lagma, P.S. Dumra District- Sitamarhi

... ... Appellant/s

Versus

1. Krishna Singh S/o. Kishori Lal Singh, resident of Village- Unta Madarpur, P.O. and P.S. and District Jehanabad, Bihar.
2. Kamlesh Kumar S/o. Raja Singh, resident of Village- Sarbali Tola, Jitu Bighem, P.O. and P.S. Karpi, District- Arwal Bihar.
3. Branch Manager, The Oriental Insurance Co. Ltd. 2 nd Floor, R.J. Palace, Rai Kashi Nath More, Gandh Maidan, Gaya, Bihar.

... ... Respondent/s

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Appearance :
For the Appellant/s : Mr.Bindeshwar Sah, Adv
For Insurance Company : Mr. Ashok Priyadarshi, Adv

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CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT

Date : 22-10-2019

Heard the parties.

This miscellaneous appeal has been filed on behalf of claimant/appellant for enhancement of compensation amount granted by the judgment/Award dated 16.07.2015/ 07.11.2015 passed by Additional District Judge-III-cum- Motor Vehicle Accident Claims, Tribunal, Sitamarhi in Claim Case No. 60 of

2010 by which compensation of Rs. 3,93,500/- has been awarded to the claimant/appellant with interest @ 6 per cent per annum from the date of order.

Claimant Lila Devi is widow and Gita Devi is minor daughter of deceased Mahesh Thakur who died on 21.01.2009 in a motor accident while going to Sitamarhi on his bicycle when a Truck bearing registration no. BR-25-6041 being driven in a rash and negligent manner by the Driver of the offending vehicle dashed against the bicycle of Mahesh Thakur as a result of which he died on the spot.

Claimants claimed compensation of Rs. 6,21,500/- on account of death of Mahesh Thakur who was a Mason and used to earn Rs. 150/- per day and Rs. 4500/- per month and Claimants were fully dependent upon him. FIR bearing Dumra PS Case NO. 41 of 2009 was instituted against the driver of the offending vehicle and after investigation, police submitted chargesheet against the driver under Sections 279 and 304(A) IPC.

Notices were issued to Opposite party no. 1 and 2 who are owner and driver of the offending vehicle but in spite of valid service of notice they did not appear.

Opposite Party No. 3-Oriental Insurance

Company appeared and filed their written statement in which they denied the claim of Claimants.

It was further stated that the driver of the offending vehicle had no valid and effective driving licence and offending vehicle was being plied on road in violation of terms and conditions of policy of insurance, as such Insurance company is not liable to pay the compensation amount.

On the basis of pleading of parties, the Claims Tribunal framed five issues for its determination.

Claimant was examined as witness and in her deposition she has supported her claim case. Documentary evidence were also adduced on behalf of Claimants which have been marked as Exhibits by the Tribunal. Exhibit-1 is the insurance policy, Exhibit-2 is copy of owner book, Exhibit-3 is copy of driving licence, Exhibit-4 is FIR, Exhibit-5 is chargesheet and Exhibit-6 is post mortem report.

No witness were examined on behalf of opposite party no. 3 Insurance Company, however, three documents were exhibited which were marked as Exhibit-A surveyor report, Exhibit-B report of DTO, Arwal, Exhibit-C Challan.

The Claims Tribunal has held that deceased died due to rash and negligent driving by the driver of the offending vehicle, as such Claimants are entitled for compensation and as the offending vehicle was insured by the insurance company, compensation is to be paid by the insurance company.

The Claims Tribunal has assessed the annual income of deceased to be Rs. 36,000/- and his age as 35 years and 16 to be appropriate multiplier and has ascertained compensation amount as Rs. 5,76,000/- and thereafter has reduced 1/3rd towards his personal expenses and loss of dependency has been assessed as Rs. 3,84,000/- and has further awarded Rs. 2000/- towards funeral expenses, Rs. 5000/- towards loss of consortium and Rs. 2500/- towards loss of estate and has quantified compensation amount to be Rs. 3,93,500/- and as Rs. 50,000/- has already been paid the Tribunal has directed to pay compensation amount of Rs. 3,43,500/- to the Oriental Insurance Company with interest @ 6 per cent per annum from the date of order.

Aggrieved by quantum of compensation and direction with regard to date of payment of interest, Claimants have filed present appeal for enhancement of compensation amount and interest to be paid from the date of application till its payment.

After hearing the parties and considering the materials available on record, this Court reassesses the compensation amount for which Claimants are entitled which is as follows:-

Annual income -	**Rs. 48,000/-**
Future Prospects (40%)	**Rs. 19,200/-**
Total Income	**Rs. 67,200/-**
Personal Expenses (1/3rd)	**Rs. 22,400/-**
Loss of dependency	**Rs. 44,800/-**
Multiplier	**16**
Compensation Amount	**Rs. 7,16,800/-**
Conventional Heads	**Rs. 70,000/-**
Total =	**Rs. 7,86,800/-**

(Seven Lacs Eighty Six Thousand EightHundred Only).

The Award passed by the Claims Tribunal is modified to the extent that Claimants are entitled for compensation of **Rs. 7,86,800/- (Seven Lacs Eighty Six Thousand EightHundred Only)** with interest @ 6 per cent per annum from the date of application till its realization.

The Insurance company is directed to pay the remaining compensation amount to the Claimants after deducting the compensation amount already paid from Rs. 7,86,800/- and pay the remaining compensation amount with interest @ 6 per cent per annum from the date of application till its realization within two months from the date of receipt/production of a copy of the order passed by this Court.

The miscellaneous appeal is disposed of.

(S. Kumar, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	27.12.2019
Transmission Date	NA