IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.516 of 2017

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National Insurance Company Biharsarif District Nalanda through Sri Rajesh Ranjan cum and duly constituted Attorney National Insurance Company Ltd. Regional Office 4th Floor, Sone Bhawan B.C. Patel Road, P.O. G.P.O. P.S. Sachiwalya Patna, District Patna. (Opp. Party No.2)

... ... Appellant/s

Versus

1. Ruby Devi, wife of Late Akhilesh Kumar Verma (claimant no.1)
2. Arvind Kumar (Minor) Son of Akhilesh Kumar Verma (claimant no.2)
3. Guriya Kumari (Minor) daughter of Akhilesh Kumar Verma (claimant no.3)
4. Pooja Kumari (Minor) daughter of Akhilesh Kumar Verma (claimant no.4)
5. Sonu Kumar (Minor) Son of Akhilesh Kumar Verma (claimant no.5) minors under the guardianship of their mother Respondent No.1.
   All residents of Village Porajit (Korajeet) P.O. Sirnama P.S. Wena District Nawada.
6. M/S Om Construction Prop. Smt. Sujata Roy owner of Truck No. BR 13/9905 at Pathra English P.O. Orhanur P.S. Mufassil District, Nawada (Opp. Party no.1)

... ... Respondent/s

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Appearance :

For the Appellant/s : Mr.Ashok Priyadarshi, Advocate
For the Respondent/s : M/s Rabi Bhushan Prasad No.1
Vijay Prakash Bhargava
Binita Singh
Umesh Prasad, Advocates

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CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT
Date : 05-08-2019

Heard.

2. Aggrieved and dissatisfied with the judgment dated 29.09.2016 and Award dated 18.03.2017 passed by District Judge-cum-Motor Accident Claims Tribunal, Nalanda at Biharsharif in Claim Case No.71 of 2012, the appellant – Insurance Company has filed the present miscellaneous appeal against quantum of compensation.

3. Claimants are the widow and children of Akhilesh Kumar Verma who died in a motor vehicle accident on 24.06.2012 on Bihar - Noorsarai road in the district of Nalanda while he was riding motorcycle when truck bearing registration no. BR – 13- 9905 being driven in rash and negligent manner dashed against motorcycle resulting in death of Akhilesh Kumar Verma. Claimants are widow and children of deceased who are fully dependant upon the deceased. The offending vehicle was insured with appellant - insurance company. The appellant- Insurance Company has challenged the award on quantum of compensation.

4. The Tribunal has assessed the income of deceased as Rs.7,500/- per month and accordingly has ascertained annual income of deceased as Rs.90,000/-. The number of dependant of deceased including the wife is five. The Tribunal has deducted 1/10th as his personal expense and has assessed the loss of dependency to be Rs. 81,000/- and applied 15 as appropriate multiplier as age of deceased was 40 years. The Claims Tribunal has assessed the total compensation as Rs.12,15,000/- . The Tribunal has further awarded additional compensation under conventional heads as Rs.1,00,000/- to the widow of the deceased for loss of consortium and further

Rs.1,00,000/- to the widow for the loss of love and affection. Four children were awarded Rs.1,00,000/- each for loss of love and affection totalling Rs.4,00,000/-. The Tribunal has further granted Rs.25,000/- towards loss of estate and Rs.25,000/- for funeral expenses and has quantified the total compensation amount as Rs.18,65,000/-, aggrieved by which, appellant - insurance Company has filed this appeal against quantum of compensation.

5. On the basis of admitted facts and the law laid down by the Hon'ble Supreme Court in National Insurance Company Limited Vs. Pranay Sethi and Ors. since reported in (2017) 16 SCC 680, the quantum of compensation is re-assessed by this Court:-

(i) Annual Income = Rs. 90,000/-

(ii) 25% future prospect = Rs. 22,500/-

(iii) Total Income = Rs. 1,12,500/-

(iv) Personal expenses 1/4th

(5 dependants) = Rs. 28,125/-

(v) Loss of dependency (annual) = Rs. 84,375/-

(vi) Multiplier = 15

(vii) Compensation Amount= Rs. 12,65,625/-

(viii)Loss of Estate = Rs. 15,000/-

(ix)Funeral Expenses = Rs. 15,000/-

(x)Loss of Consortium= Rs.40,000/-

Total = Rs.13,35,625/-

(xi) Interim compensation paid = Rs.50,000/-

(xii) Payable compensation amount

(Rs.13,35,625/- – Rs.50,000/-) = Rs.12,85,625/-

6. The insurance company is directed to pay the compensation amount of Rs.12,85,625/- (Twelve lacs eighty five thousand six hundred twenty five only) with 7% rate of interest from the date of filing of claim petition till the date of payment within three months from the date of receipt/production of copy of order passed by this Court.

7. The statutory amount of Rs.25,000/- which was deposited by the appellant - Insurance Company for which a cheque be prepared in the name of claimant no.1 and send to the concerned Claims Tribunal for its payment to the claimant, which shall be adjusted in the compensation amount.

8. Miscellaneous appeal is disposed of.

(S. Kumar, J)

Sanjay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	06.08.2019
Transmission Date	NA