IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.154 of 2017

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1. Pratibha Devi, W/o Late Brij Kishor Pandey,
2. Kumari Priyanka,
3. Kumari Prity,
4. Kumari Poonam, all D/o Late Brij Kishor Pandey,
5. Sudhanshu Shekhar @ Sudhanshu Shekhar Pandey, s/o Brij Kishor Pandey, all are R/o Village- Bansghat Maharani, P.S.- Mohammadpur, District- Gopalganj.

... ... Appellant/s

Versus

1. The Oriental Insurance Company Ltd. Branch at Barnawal Market, Brahm Chauk, District, Gopalganj
2. Devendra Singh, S/o Sukhdeo Singh, R/o Mohammadpur, PO- Teknewas, District- Gopalganj.

... ... Respondent/s

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Appearance :
For the Appellant/s : Mr.Chandra Kant
For the Respondent/s : Mr.Sanjay Singh

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CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT
Date : 27-08-2019

Heard parties.

2. This miscellaneous appeal has been filed on behalf of the claimants/appellants for enhancement of compensation amount awarded by judgment and award dated 13.04.2016 passed by learned District Judge-cum-Motor Accident Claims Tribunal, Gopalganj in claim case no.12/2014 by which the claims tribunal has awarded compensation of Rs.5,80,020/- with interest at the rate of 6% per annum from date of filing of claim application till its realization.

3. Claimant Pratibha Devi filed an application under

Section 166 of MV Act for grant of compensation on account of death of her husband Brijkishor Pandey in a motor accident on 12.10.2004 by the jeep bearing registration No. BR – 28 - 7832 which was being driven in rash and negligent manner by the driver-cum-owner of the offending jeep.

4. FIR was instituted giving rise to Mohamadpur P.S. Case No.61/04 under Sections 279, 304A of IPC instituted against the driver of the offending vehicle and after investigation, police submitted charge-sheet against him. The deceased was 38 years of age and was in a regular service as assistant teacher in government primary school having monthly salary of Rs.9,000/-. Claimants claimed compensation of rupees 25 lacs. The offending vehicle was insured with the Oriental Insurance Company Ltd. on the date of accident.

5. The claims tribunal has assessed the monthly income of deceased to be Rs.5,171/- and annual income as Rs.62,052/- and has deducted 1/3rd of income towards his personal expenses and assessed loss of dependency to be Rs.41,368/- per annum and applied multiplier of 15 and worked out compensation to be Rs.6,20,520/- and has granted additional compensation under conventional heads as Rs.2,000/- for funeral expenses, Rs.2,500/- for loss of estate and Rs.5,000/-

for loss of consortium and has quantified compensation amount as Rs.6,30,020/- and since claimants have already received interim compensation of Rs.50,000/- as such has directed the insurance company to pay compensation amount of Rs.5,80,020/- with interest @ 6% per annum from the date of filing of claim application.

6. Aggrieved by the quantum of compensation, claimants/appellants have preferred this appeal on the ground that as number of dependants were more than three as such, deduction under personal expenses should be 1/4th and as deceased was a government employee, 50% future prospect was required to be added as well as Rs.70,000/- was payable under the conventional heads.

7. Accordingly, in view of the law laid down by the Apex Court in case of ***Sarla Verma and Ors vs. Delhi Transport Corporation and Others since reported in (2009) 6 SCC 121*** and in the case of ***National Insurance Company Ltd. vs. Pranay Sethi & Ors since reported in (2017) 16 SCC 680,*** the compensation amount is worked out on the basis of annual income as Rs.62,052/- and deducting 1/4th towards personal expenses of deceased, loss of dependency is assessed as Rs.46,539/- and applying 15 as multiplier, compensation

amount comes to Rs.6,98,085/- and 50% is added towards future prospect, i.e., Rs.3,49,042/- and Rs.60,500/- is added under remaining conventional heads and compensation amount is quantified as Rs.11,07,627/- for which claimants are found to be entitled.

8. The award passed by the claims tribunal is modified to the extent that claimants are entitled for Rs.11,07,627/- (rupees eleven lacs seven thousand six hundred twenty seven only) with 6% interest from the date of application till its payment.

9. The insurance company is directed to pay the remaining compensation amount to the claimants after deducting the compensation amount already paid from Rs.11,07,627/- (rupees eleven lacs seven thousand six hundred twenty seven only) with 6% of interest on the remaining compensation amount from the date of filing of application till its payment.

10. Miscellaneous appeal stands disposed of.

(S. Kumar, J)

Sanjay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	04.12.2019
Transmission Date	NA