

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.448 of 2016

1. Radhika Devi, w/o Satnama Singh Soni
2. Satnam Singh Soni, S/o late Butan Singh
Both residing at Mohalla- Safullahganj, P.S. Sasaram (T), District, Rohtas
...Claimants - appellants

Versus

1. Shri Chamkaur Singh, S/o Sri Kamal Singh, C/o A.K. Jha of Gandhi Nagar (Dhanbad), P.S. and District, Dhanbad
..... O.P. No.1/Respondent
 2. the Oriental Insurance Company Limited, through its Branch Manager, Branch Office at Rauza Road, Sasaram, District, Rohtas ..
.....O.P. No.2/ respondent
 3. Shri Pitul Singh, S/o Sarju Singh, C/o Ramadhar Singh of New Area, G.T. Road, Sasaram, District, Rohtas, permanently residing at Village-Basuhara, P.S. Sasaram (M), District- Rohtas
..O.P. No.3 / respondent
-

Appearance :

For the Appellant/s : Mr. Ashok Kumar
For the Respondent/s : Mr. Bimlesh Kumar Jha

CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT

Date : 26-08-2019

Heard parties.

2. This miscellaneous appeal under Section 173 of M.V. Act has been filed on behalf of the claimants/appellants for enhancement of compensation amount awarded by judgment dated 05.02.2016 and award dated 21.03.2016 passed by learned District Judge-cum- Motor Vehicle Accident Claims Tribunal, Rohtas at Sasaram in claim case No.05/2002 by which the Tribunal has awarded compensation of Rs.2,94,840 along with interest @ 9% per annum.

3. Deceased Rajkumar @ Rajkumar Soni was the driver of marshal jeep bearing registration no.BR-24B/5935 and



while on its way to Mundeshwari Devi temple on 12.12.2001, a truck bearing registration No.HR-38E/3963 dashed against the jeep which was being driven in a rash and negligent manner by the driver of the offending truck as a result of which jeep plunged into ditch in which apart from other occupants, driver of the jeep also died on the spot.

4. F.I.R. was instituted giving rise to Shivsagar P.S. Case No.137/2001 instituted under Sections 279, 337, 338, 304(A) of the Indian Penal Code and after completion of investigation, the investigating officer found the allegations against the driver of the offending truck to be true and submitted charge-sheet against him.

5. The deceased at the time of his death was 25 years old and he used to earn Rs.3,000/- per month and he was unmarried. Parents, brother and sister are claimants.

6. On the basis of evidences adduced before the Tribunal, the Tribunal found that deceased died in an accident due to rash and negligent driving by the driver of the offending truck. Tribunal has assessed the monthly income of deceased to be Rs.2100/- per month upon which 30% future prospect was added and ascertained annual income of deceased as Rs.32,760/- and since he was unmarried, 50% of the amount



has been deducted towards his personal expenses and loss of dependency has been assessed as Rs.16,380/- and after applying 18 as multiplier, claims tribunal assessed compensation as Rs.2,94,840 /- after deducting Rs.25,000/- which was paid as an interim compensation.

7. The claimants are aggrieved by the quantum of compensation as assessed by the Tribunal and have filed the present appeal for enhancement of compensation amount. It has been submitted that Rs.36,000/- is to be taken as annual income of deceased in order to assess the compensation amount.

8. On the basis of admitted facts and the law laid down by the Hon'ble Supreme Court in ***Sarla Verma and Ors vs. Delhi Transport Corporation and Others since reported in (2009) 6 SCC 121*** and ***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 as follows:-

Annual Income	= Rs. 36,000/-
future prospect (40%)	= Rs.14,400/-
Total Income	= Rs.50,400/-
Personal expenses (50%)	= Rs.25,200/-
Loss of dependency	= Rs.25,200/-



Multiplier 18 = Rs.4,53,600/-

Conventional heads = Rs.70,000/-

Total Compensation Amount = Rs.5,23,600 /-

9. Claimants are entitled for compensation of Rs.5,23,600/- (rupees five lacs twenty three thousand six hundred) and award passed by the claims tribunal is modified to said extent.

10. The insurance company is directed to pay the remaining compensation amount after deducting the compensation amount already paid from Rs.5,23,600/- (rupees five lacs twenty three thousand six hundred) and pay the remaining compensation amount with interest at the rate of 9% per annum on the remaining compensation amount to the claimants from the date of filing of claim application till its payment within three months from the date of receipt/production of copy of order passed by this Court.

11. The claims tribunal has declined to grant interest from the date of filing of claim application and has awarded interest from 24.06.2010 for the reason that claimants took six years time in adducing evidence. This part of the order is set aside and it is directed that claimants are entitled for interest @9% per annum from the date of filing of claim application till



its payment and same to be calculated and paid within three months.

12. Miscellaneous appeal is allowed to the extent as indicated above.

(S. Kumar, J)

Sanjay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	29.10.2019
Transmission Date	NA

