

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.21 of 2016

1. Jaimala Devi w/o Shambhu Nath Singh.

2.Shambhu Nath Singh s/o Late Lalji Prasa Singh.

3.Sashi Bhusan Singh, s/o Shambhu Nath Singh.

4.Sarita Kumari d/o Shambhu Nath Singh

Appellant No. 3 and 4 are minors under the guardianship of their Mother,
Appellant No. 1.

All resident of village Babhangama P.S Naya Gaon, District Saran.

At present resident of Raghopur, P.S Jurawanpur, District Vaishali.

... .. Appellant/s

Versus

1.Bhagwati Prasad Mourya s/o Ram Sakal Mourya, resident of Ramandna
Prasad Colony Ovrasod Sonbhadra Uttar Pradesh.

2.Kanta s/o Somnath resident of kanak P.S. Chapak, District Sonbhadra (UP).

3.The New India Assurance Company Ltd.

(a) Through Branch Manger, the New India Assurance company Ltd. Cinema
Road, Hajipur.

(b) Branch Manager, The New India Assurance Company Ltd. Station Road,
Civil Lines, Robertsganj.

... .. Respondent/s

with
Miscellaneous Appeal No. 579 of 2016

The New India Assurance Company Ltd
(A) Through Branch Manager, the New India Assurance Company Limited,
Cinema road, Hajipur



(B) Branch Manager, the New India Assurance Company Limited, Station Road, Civil Lines, Robertsganj
Appeal and appellants through the Assistant Manager / authorized signatory duly constituted Attorney, New India Assurance Company Limited, Regional Office, 6th & 7th Floor, BSFC Building, Frazer Road, Patna

... OP -3 9a) & (b) /Appellants

Versus

1. Jaimala Devi w/o Shambhu Nath Singh.
2. Shambhu Nath Singh s/o Shambhu Nath Singh
3. Sashi Bhusan Singh, s/o Shambhu Nath Singh.
4. Sarita Kumari d/o Shambhu Nath Singh

(claimant Nos. 3 and 4 were minors under the natural guardian mother, res.1 at the time of filing of claim case but during pendency of claim case attained majority)

All the above are resident of village- Babhangama, P.S. Nayagaon, Dist. Saran at present resident of Raghapur, PS Jusanpur, Dist. Vaishali

.....Claimants/ Respondents

5. Sri Bhagwati Prasad Maurya, S/o Ram Sakal Maurya, Resident of Ramanand Prasad Colony, Ovrasod, Sonbhadra, Uttar Pradesh (owner)

O.P. 1 / Respondent

6. Kanta, s/o Somnath, resident of Kanak, PS Chopak, Dist, Sonbhadra, UP (driver)

...OP -2 ... Respondent/s

Appearance :

(In Miscellaneous Appeal No. 21 of 2016)

For the Appellant/s : Mr. Alok Kumar @ Alok Kr Shahi, Adv & Mr. A. Sinha, Adv
For the Respondent/s : Mr. Durgesh Kumar Singh, Adv

(In Miscellaneous Appeal No. 579 of 2016)

For the Appellant/s : Mr. Durgesh Kumar Singh, Adv
For the Respondent/s : Mr. Alok Kumar @ Alok Kr Shahi, Adv & Mr. A. Sinha, Adv

CORAM: HONOURABLE MR. JUSTICE S. KUMAR



ORAL JUDGMENT
Date : 08-07-2019

Heard the parties.

2. Miscellaneous appeal No. 21 of 2016 has been filed on behalf of claimants-appellants under Section 173 of M.V. Act for enhancement of compensation amount awarded by judgment dated 31.08.2015 and Award dated 11.09.2015 passed by ADJ-I-cum-Motor Accident Claims Tribunal, Hajipur at Vaishali in Claim Case No. 67 of 2010 whereas M.A. No.579 of 2016 has been filed on behalf of Insurance Company on the ground that compensation amount is excessive.

The claimants had filed claim case for grant of compensation on account of death of Abhay Raj @ Babloo in a motor accident while he was going to Babhangama from Hajipur on 19.02.2010 on his own motorcycle when his motorcycle was dashed by the Dumpher bearing registration no. UP-64E-6975, which was being driven in a rash and negligent manner, as a result of which he sustained grievous injury and was taken to Sadar Hospital, Hajipur for treatment but he succumbed to his injuries.

FIR was instituted giving rise to Sonapur PS Case No. 38 of 2010 under Section 279, 304A of IPC against the Driver of the offending vehicle and after investigation police submitted



chargesheet against him for rash and negligent driving.

The vehicle was insured with New India Assurance Company Ltd. on the date and time of accident and as such Claims Tribunal held Insurance Company to be liable for payment of compensation amount and quantified total compensation to be Rs. 23,106,56/- to be paid to the claimants with interest @ 7 per cent per annum from the date of application till date of payment after deducting the applicable income tax.

The claims tribunal has assessed the monthly income of deceased as Rs.14,284/- and annual income as Rs.1,71,408/- and since deceased was unmarried the tribunal has deducted 50% of annual income towards his personal and living expenses which comes to Rs.85,902/- and as such, has assessed loss of dependency to be Rs.85,902/- and since the age of deceased was 21 years, multiplier of 18 was applied and compensation amount has been assessed as 15,46,236/- and thereafter has added 50% towards future prospect and thereafter under conventional heads has granted Rs.2,500/- for loss of estate, Rs.2,000/- for funeral expenses and Rs.5,000/- for loss of love and affection and has quantified the amount of compensation as Rs.23,10,656/- with interest @ 7% per annum from the date of



filing of claim application till its payment.

After hearing the parties and perusing the order passed by claims tribunal, this court does not find any infirmity or error in the award passed by the claims tribunal. Accordingly, the Insurance company is directed to pay the compensation amount in terms of award passed by claims tribunal within two months from date of receipt/production of a copy of order passed by this Court.

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 no.1 and be send to the concerned Tribunal for its onward payment to the claimants, which shall be adjusted in the claim amount.

Both the miscellaneous appeals are disposed of.

(S. Kumar, J)

ranjan/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	12.09.2019
Transmission Date	NA

