

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.301 of 2016

1. Suleman
2. Ajim
3. Nijam, All sons of Late Md. Muslim.
4. Najma,
5. Sajo @ Suji Both D/o Late Md. Muslim
All resident of village- Narainpur Derhpura, P.S. Mahnar, District- Vaishali.
... .. Appellant/s

Versus

1. Arvind Kumar Singh S/o Ram Sakal Singh, Resident of village and P.O. Chandpura, P.S. Bidupur, District- Vaishali (Owner of the vehicle involved in accident bearing Reg. No. BR-06P-1429).
2. Shiv Chandra Yadav, S/o Lal Das Rai, Resident of Village- Sabalpur, P.S. Sonapur, District- Saran. (Driver of the vehicle involved in accident bearing Reg. NO. BR-06P-1429).
3. the Oriental Insurance Company Ltd., through the Branch Manager, Hajipur Branch, Ram Ashish Chowk, P.S. Sadar, District- Vaishali (Insurer of the vehicle involved in accident).

... .. Respondent/s

with

Miscellaneous Appeal No. 303 of 2016

1. Salma Khatoon W/o Late Md. Salim.
2. Md. Kalam S/o Late Md. Salim,
3. Md. Firoj S/o Late Md. Salim, All resident of village- Salha, P.O. and P.S. Jandaha, District- Vaishali (Claimants)

... .. Appellant/s

Versus

1. Arvind Kumar Singh S/o Ram Shakal Singh, Resident of village and P.O. Chandpura, P.S. Bidupur, District- Vaishali. (Owner of the vehicle involved in accident bearing Reg. No. BR-06P-1429).
2. Shiv Chandra Yadav S/o Lal Das Rai, Resident of Village- Sabalpur, P.S. Sonapur, District- Saran at Chhapra. (Driver of the vehicle involved in accident bearing Reg. No. BR-06P-1429).

... .. Respondent/s

Appearance :

(In Miscellaneous Appeal No. 301 of 2016)

For the Appellant/s : Mr.Satya Prakash Sinha

For the Respondent/s : Mr.

(In Miscellaneous Appeal No. 303 of 2016)

For the Appellant/s : Mr.Satya Prakash Sinha

For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT



Date : 02-09-2019

Heard the parties.

Miscellaneous Appeal No. 301 of 2016 has been filed on behalf of claimant/appellant for enhancement of compensation amount awarded by judgment and Award dated 04.08.2014/08.08.2014 passed by Ad-hoc Additional District Judge-II-cum-M.A.C.T., Vaishali at Hajipur passed in Claim Case No. 34 of 2001 by which the claims tribunal has awarded compensation of Rs. 2,29,000/- with interest @ 6% p.a. from the date of filing of claim case till its payment whereas M.A. No. 303 of 2016 has been filed on behalf of claimant/appellant for enhancement of compensation amount awarded by judgment and Award dated 04.08.2014/08.08.2014 passed by Ad hoc District Judge-II-cum M.A.C.T., Vaishali at Hajipur passed in Claim Case No. 35 of 2001 by which compensation of Rs. 2,29,220/- has been awarded with interest @ 6% p.a. from date of filing of claim application till its payment.

M.A. No. 301 of 2016 (arising out of Claim Case No. 34 of 2001)

Claimants are aggrieved by the quantum of compensation. Claims tribunal in claim case No. 34 of 2001 has assessed the age of deceased as 40 years and has applied



multiplier of 15 and has assessed his monthly income on the basis of notification issued by the Labour Department, government of Bihar with respect to minimum wages paid to unskilled labour which is Rs. 57.70 per day and has assessed his annual income to be Rs. 20,772/- and thereafter has deducted 1/3rd towards personal expenses of deceased and has ascertained loss of annual dependency to be Rs. 13,848/- and after multiplying with multiplier 15 has worked out compensation amount as 2,07,720/- and thereafter has granted compensation under conventional heads as Rs. 2,500/- for funeral expenses Rs. 4,000/-, for loss of estate and Rs. 15,000/- as future prospects and has quantified the total compensation amount as Rs. 2,29,220/- .

It has been submitted on behalf of claimant/appellant that deceased was the sole bread earner of the family and claimants were fully dependent upon him. Deceased was engaged as a master in original Noor Hasan Band Party and he was accomplished Sofa Maker and used to earn Rs. 4000/-- 5000/- per month. There cannot be any documentary evidence with respect to monthly income of deceased as he was not a salaried employee. The notification issued by the Labour department with respect to minimum wages is only a guiding



factor and monthly income cannot be assessed solely on basis of said notification rather it is to be determined on the basis of evidences adduced before the tribunal by the claimants. The monthly income cannot be determined less than Rs. 3000/- and accordingly the monthly income of deceased is taken as Rs. 3000/- per month and compensation is re-assessed in the following manner:-

Annual income	Rs. 36,000/-
Future Prospect(25%)	Rs. 9000/-
Total Income	Rs. 45,000/-
Personal expenses(1/3rd)	Rs. 15,000/-
Loss of dependency	Rs. 30,000/-
Multiplier (15)	Rs. 4,50,000/-
Conventional Heads	Rs. 70,000/-
Total Compensation	Rs. 5,20,000/-(Rs. Five lacs twenty thousand)

The award passed by claims tribunal is modified to the extent that claimants are entitled for compensation of Rs. 5,20,000/-(Rs. Five lacs twenty thousand).

The Insurance Company is directed to pay the remaining compensation amount to the claimants after deducting the claim amount already paid from Rs. 5,20,000/- (Rs. Five lacs twenty thousand) with interest @ 6% p.a. from



the date of filing of claim application till its payment within 60 days from the date of receipt/production of a copy of order passed by this Court.

M.A. No. 303 of 2016 (arising out of Claim Case No. 35 of 2001)

Claimants are aggrieved by the quantum of compensation. Claims tribunal in claim case No. 34 of 2001 has assessed the age of deceased as 40 years and has applied multiplier of 15 and has assessed his monthly income on the basis of notification issued by the Labour Department, Government of Bihar with respect to minimum wages paid to unskilled labour which is Rs. 57.70 per day and has assessed his annual income to be Rs. 20,772/- and thereafter has deducted 1/3rd towards personal expenses of deceased and has ascertained loss of annual dependency to be Rs. 13,848/- and after multiplying with multiplier 15 has worked out compensation amount as 2,07,720/- and thereafter has added compensation under conventional heads as Rs. 2,500/- for funeral expenses Rs. 4,000/-, for loss of estate and Rs. 15,000/- as future prospects and has quantified the total compensation amount as Rs. 2,29,220/- .

It has been submitted on behalf of claimant/appellant



that deceased was the sole bread earner of the family and claimants were fully dependent upon him. Deceased was engaged as a master in original Noor Hasan Band Party and he was accomplished Sofa Maker and used to earn Rs. 4000/-- 5000/- per month. There cannot be any documentary evidence with respect to monthly income of deceased as he was not a salaried employee. The notification issued by the Labour department with respect to minimum wages is only a guiding factor and monthly income cannot be assessed solely on basis of said notification rather it is to be determined on the basis of evidences adduced before the tribunal by the claimants. The monthly income cannot be determined less than Rs. 3000/- and accordingly the monthly income of deceased is taken as Rs. 3000/- per month and compensation is re-assessed in the following manner:-

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Personal expenses(1/3rd)	Rs. 15,000/-
Loss of dependency	Rs. 30,000/-
Multiplier (15)	Rs. 4,50,000/-
Conventional Heads	Rs. 70,000/-



Rs. 5,20,000/- (Rs. Five
lacs twenty thousand)

The award passed by claims tribunal is modified to the extent that claimants are entitled for compensation of Rs. 5,20,000/-(Rs. Five lacs twenty thousand).

The Insurance Company is directed to pay the remaining compensation amount to the claimants after deducting the claim amount already paid from Rs. 5,20,000/- (Rs. Five lacs twenty thousand) with interest @ 6% p.a. from the date of filing of claim application till its payment within 60 days from the date of receipt/production of a copy of order passed by this Court.

Both the miscellaneous appeals are disposed of.

Let the LCR be returned to the court concerned forthwith.

(S. Kumar, J)

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AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	17.12.2019
Transmission Date	N.A.

