IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Appeal No.329 of 2015

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The Branch Manager United India Insurance Company Limited, Bhagwandas Mohalla, J.P. Chowk, Darbhanga, appeal and appellant through the Manager & Authorized signatory Regional office, United India Insurance Company Limited, 3rd Floor, Chanakya Towers, R Block, Patna ... O.P. 3 ... Appellant/s

Versus

1. Binita Devi, W/o Lt. Kalanand Jha
2. Puja Kumari, D/o Lt. Kalanand Jha (major v/o dt. 16.01.2019)
3. Dipak Kumar Jha S/o Lt. Kalanand Jha (major v/o dt. 16.01.2019)
4. Runa Kumari, D/o Lt. Kalanand Jha (major V/o dt. 16.01.2019)
   (Claimant No.2-4 are under natural guardianship mother, Res.1) All are Resident of Village- Maubehat, P.S. Manigachhi, Dist- Darbhanga.
   …..... Applicants / Respondents
5. Chulhai Hazra, S/o Nathu Hazra
   Resident of Mohalla- Tilak Maidan Road, P.S. Sadar, Dist- Muzaffarpur. (Owner of vehicle) O.P. -1 / Respondent
6. Harendra Giri, S/o Ram Swaroop Giri
   Resident of Village- Jagdishpur, P.S. Bihta, Dist. Patna.
   O. P. 2 / Respondent/s

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Appearance :

For the Appellant/s : M/s Durgesh Kumar Singh
Anjana Sinha, Advocates

For the Respondent/s : M/s Dinesh Jha,
Nikhilesh Kumar, Advocates

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CORAM: HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

Date : 06-08-2019

I.A. No.7646 of 2015:

Heard.

This interlocutory application has been filed for condoning the delay of 66 days in preferring the present appeal.

For the reasons mentioned in this interlocutory application, this Court is satisfied that the appellant was prevented from sufficient reasons from preferring this miscellaneous appeal petition within time.

As a result, this interlocutory application is allowed and the delay in filing this miscellaneous appeal petition is hereby condoned.

M.A. No.329 of 2015:

Heard parties.

2. Aggrieved by judgment dated 18.07.2014 and award dated 23.02.2015 passed by Additional District Judge-cum-Motor Vehicle Accident Claims Tribunal, Darbhanga in claim case No.7/2003, the appellant – Insurance Company has filed this miscellaneous appeal against the ascertainment of the Tribunal regarding annual income of deceased and quantum of compensation granted by the Tribunal.

3. The only issue raised on behalf of the Insurance Company is that on the basis of income tax return which was filed subsequent to death of the deceased, the Tribunal has assessed the income of the deceased.

4. This Court had asked the counsel for claimant to produce the income tax return of last two years so that it could be taken into consideration while ascertaining annual income of deceased but same could not be produced on behalf of the claimant – respondents as such, the basis for determination of

annual income of deceased on income tax return which was filed subsequent to his death is not sustainable and the finding of the Tribunal with respect to monthly income of the deceased requires reconsideration.

5. It has been submitted that there is nothing on the record or any documentary evidence showing income of the deceased accordingly income of the deceased is ascertained as Rs.36,000/- and compensation amount is reassessed as following:-

(I) Annual Income = Rs. 36,000/-

(ii) 40 % future prospect

(age 38 years) = Rs. 14,400/-

(iii) Total Income = Rs.50,400/-

(iv) Personal expenses ¼

(number of dependants 4) = Rs.12,600/-

(v) Loss of dependency

(Rs.50,400-Rs.12,600) = Rs. Rs.37,800/-

(vi) Multiplier = 15

(vii) Compensation Amount

(37800 x 15) = Rs. 5,67,000/-

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

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

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

Total = Rs.6,37,000/-

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

(xii) Payable compensation amount

(Rs.6,37,000-Rs.50,000) = Rs.5,87,000/-

6. The insurance company is directed to pay the amount of compensation of Rs. 5,87,000/- (five lacs eighty seven thousand only) with 9% rate of interest from the date of filing of claim petition till date of payment within two 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