

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.286 of 2013

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Bidya Nand Singh S/O Jay Narayan Singh Resident Of Village Neemarang,
P.S. Jamui, Presently Residing At Mohalla Adampur Red Cross Road C/O Sri
Sanjay Kumar, P.S. Barari, District Bhagalpur.

... .. Appellant/s

Versus

1. Sudesh Kumar Singh @ Subodh Kumar Singh S/O Late Brij Nandan Singh
Resident Of Jamui, P.S. Jamui, District Jamui.
2. The Oriental Insurance Company Limited, Division Office R.B.S.S.S. Road,
Megh Malhar, Bhagalpur.
3. Indradeo Singh S/O Late Pradeep Singh Resident Of Village Khandgair, Post
Amragh, District Bhagalpur.

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Ajay Kumar Singh, Advocate Mr. Pankaj Kumar Sinha, Advocate Mr. Sanjiv Sharan, Advocate
For the Respondent/s	:	Mr. Randhir Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL JUDGMENT
Date : 22-01-2019

Heard learned counsel for the parties.

2. Appellant is victim of permanent disablement in a motor accident. Left arm of the appellant got amputated in the motor accident. The appellant filed Motor Vehicle Accident Claim Case No.113 of 1997 in the Court of Ad hoc Additional District Judge-3-cum-Motor Vehicle Accident Claim Tribunal, Bhagalpur, against the owner of the vehicle and the insurer. The Tribunal decided the claim in favour of the appellant on 18.12.2012. The appellant is not satisfied only to the extent of calculation of the claim amount by the Tribunal.



3. Learned counsel for the insurer fairly conceded on the facts of the case and the law applicable.

4. According to the appellant, the Tribunal has assessed age of the appellant as twenty-one years nine months and eight days on the date of accident. As such, the appropriate multiplier should be 18 in view of the judgment of the Supreme Court in **Sarla Verma and Others V. Delhi Transport Corporation and Another** reported in **(2009) 6 SCC 121**. There is no dispute that the multiplier is applicable in case of death in motor accident as well as in case of permanent disablement. The Tribunal has taken multiplier of 17 for calculating the compensation.

5. Since the multiplier of 18 is applicable, the finding of the Tribunal that multiplier of 17 would be applicable is not sustainable and accordingly the same is set aside.

6. Learned counsel further submits that the deduction of one-third made by the Tribunal from the total income of the appellant is also wrong as deduction is permissible only in case of death and claim of compensation by the dependent of the victim of the motor accident. In the present case, the appellant is himself victim of permanent disablement. No deduction is permissible.



7. Finding substance in the submission aforesaid, the finding of the Tribunal that one-third is deductible for personal expenses is set aside. The impugned order further reveals that the Tribunal had not awarded interest on the total compensation amount payable from the date of application till realization of the amount. Hence, it is directed that 9% interest shall be payable to the appellant from the date of application for compensation till realization of the amount.

8. With the aforesaid observation, the impugned order is set aside and the matter is remitted back to the Tribunal to recalculate the claim amount and pass appropriate award within two months from the date of receipt of a copy of this order.

9. Accordingly, the appeal is allowed without cost.

(Birendra Kumar, J)

Mkr./-

AFR/NAFR	NAFR
CAV DATE	NA
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