

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.487 of 2015

1. Manish Kumar, son of Late Suresh Prasad
 2. Dhiraj Kumar son of Late Suresh Prasad
 3. Sona Devi wife of Late Suresh Prasad
- All are resident of Village- Rupanpatti, P.S.- Sakra, District- Muzaffarpur.

... .. Appellant/s(petitioners)

Versus

1. Divisional Manager, Oriental Insurance Company Ltd. Daya Complex, Kalambagh Road, Aghoriyabazar Chauck, Post Ramna, Muzaffarpur
2. Raushan Kumar son of Late Laldeo Prasad Singh Resident of Village- Akharaghat, P.S.- Ahiyapur, Post- Seikhpura, District- Muzaffarpur.

... .. Respondents/opp. Parties

Appearance :

For the Appellant/s : Mr. Ravi Ranjan

For the Respondent/s : Mr. Bimlesh Kumar Jha

CORAM: HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

Date : 16-07-2019

Heard parties.

This appeal under Section 173 of the M.V. Act, 1988 has been filed on behalf of claimants/appellants for enhancement of compensation amount granted by judgment and award dated 27.6.2015 and 9.7.2015 by the learned 9th Additional District Judge -cum -Motor Accident Claims Tribunal, Muzaffarpur in claim case No.166 of 2011 by which the learned claims tribunal has awarded Rs.3,67,000/- as compensation amount to the claimants.

Claims tribunal has assessed the income of deceased as Rs.100/- per day which will be Rs.3,000/- per month and



Rs.36,000/- per annum and the age of deceased as 42 years and has applied 15 as multiplier and has assessed Rs.5,40,000/- as compensation amount and deducted 1/3rd towards his personal expenses and has found loss of dependency to be Rs.3,60,000/- p.a. and has further awarded Rs.2,000/- for funeral expenses, Rs.5,000/- for loss of consortium and has quantified total compensation amount as Rs.3,67,000/- and since Rs.50,000/- has already been paid as interim compensation, has directed the Oriental Insurance Company to pay Rs.3,17,000/- as compensation to the claimants with 6% interest per annum from the date of filing of claim application till its payment.

The counsel for the appellants has assailed the judgment and award with respect to assessment of the claims tribunal with respect to earning of the deceased as there were consistent evidence that deceased earned Rs.2,00/- per day but tribunal has considered his income to be Rs.1,00/- per month contrary to evidence on record. Deceased was a skilled labourer as such, claims tribunal ought to have believed the evidence of witnesses that he earned Rs.2,00/- per month, however, same was not believed by the claims tribunal for the reason that there is no documentary evidence in support of such earning. It is submitted that in case of self-employment or semi-skilled



labourer working on daily wages there cannot be any documentary evidence and same has to be assessed on the basis of oral evidence only.

Having considered the submission of parties, this Court is of the view that income of deceased is to be taken as Rs.150/- per day in view of minimum wages for skilled labourer as per notification dated 3.11.2017 issued by Government of Bihar and accordingly monthly income will be Rs.4,500/- and annual income would be Rs.54,000/-per annum which will be reasonable, proper and realistic.

This Court re-assess the quantum of compensation in view of law laid down by the Apex Court in ***Sarla Verma and Ors vs. Delhi Transport Corporation and Others*** and ***National Insurance Company Ltd. vs. Pranay Sethi & Ors.*** which is as follows:-

Annual income	- Rs.54,000/-
Future prospect (25%)	- Rs.67,500/-
personal expenses (1/3)	-Rs.22,500/-
loss of dependency	-Rs.45,000/-
multiplier (14)	- Rs.6,30,000/-
balance conventional heads (70,000 -7,000)	-Rs.63,000/-
Total compensation	- Rs. 6,93,000/-



The insurance company is directed to pay the remaining amount of compensation after deducting the compensation amount already paid to the claimants from Rs. 6,93,000/- (six lacs ninety three thousand only) with 6% interest per annum on the remaining compensation amount within two months from the date of receipt/production of a copy of order passed by this Court.

Miscellaneous appeal stands disposed of.

(S. Kumar, J)

Sanjay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	03.10.2019
Transmission Date	NA

