IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.61 of 2016

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1. Fuleshwari Devi W/O Late Sudeshwar Saw,
2. Mayanand Kumar S/O Late Sudeshwar Saw,
3. Ayush Kumar S/O Late Sudeshwar Saw,
4. Dhan Babu S/O Late Sudeshwar Saw, All Resident of Village- Kauria Pali, P.S.- Bihta Distt.- Patna.

... ... Appellant/s

Versus

1. Nipendra Yadav S/O Suryanath Yadav Resident of Village- Tedeni, P.S.- Jagdishpur, District- Bhojpur.
2. Devendra Nath Rai S/O Sri Rajendra Narain Rai, Resident of Village+P.O.- Mahinawan, P.S.- Maner, District- Patna.
3. United India Insurance Co. Ltd. Through its Divisional Manager, DO- I Laxmi Apartment, Frazer Road, Patna.

... ... Respondent/s

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Appearance :
For the Appellant/s : Mr. Alok Kumar @ Alok Kr Shahi, Adv.
For the Respondent/s : Mr. Harendra Kumar, Adv.

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CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT
Date : 26-06-2019

Heard the parties.

2. This miscellaneous appeal has been filed for enhancement of compensation amount awarded by the Motor Vehicle Accident Claim Tribunal, Patna, in Claim Case No. 295/2012/17/2013 by which compensation of Rs. 2,97,500/- has been awarded with 7% interest per annum by the order passed by Additional District Judge-VII -Cum Motor Accident Claims Tribunal, Patna by order dated 25.05.2015.

3. Briefly stated, the facts of the case as disclosed in

claim petition filed is that claimants are widow and children of Sudeshwar Saw on 05.01.2012 at about 1.15 was returning home from Gultera Bazar, Bihta, on his cycle when a truck bearing registration No. BR-01G-6035 which was being driven rashly and negligently by the driver of said vehicle dashed against Sudeshwar Saw and he fell down and was run over by the said truck on the road, as a result of which he died on the spot. Postmortem of the dead body was conducted at Sub-Divisional Hospital, Danapur. Claimants are the widow and children of deceased and were fully dependent upon him.

4. FIR was instituted on the fardbeyan of Mayanand Kumar giving rise to Bihta P.S. Case No. 7/2012 dated 05.01.2012 under Section 279 and 304 A IPC against the driver of the offending vehicle and after investigation, police found the case to be true and submitted charge sheet against the driver of the offending vehicle. Said truck was insured with opposite party No. 3 United India Insurance Company, Ltd. and opposite party No. 1 and opposite party No. 2 were owner and driver of the said offending vehicle, however, opposite party No. 1 and 2 did not appear in spite of valid service of notice and claim case proceeded ex parte against them. Opposite party No. 3 appeared and filed their written statement in which they stated that driver

of the offending vehicle was not having a valid and effective driving licence as such, Insurance Company is not liable to indemnify the owner of the vehicle. However, it was admitted by the Insurance Company that the offending truck was insured by it on the date of accident.

5. On the basis of pleadings of the parties, the Tribunal framed eight issues for its determination. The tribunal has held that deceased died due to rash and negligent driving by the driver of the offending truck and on the date of accident the vehicle was insured by the Insurance Company, as such, claimants are entitled for compensation from Insurance Company.

6. The tribunal has found the age of deceased to be 60 years and has assessed monthly income to be Rs. 4,500/- and annual income to be Rs. 54,000/-, 18000/- has been deducted on personal expenses and loss of dependency has been ascertained to be Rs. 36,000/- annually and has applied multiplier of 8 and ascertained amount of compensation as Rs. 2,88,000/- and thereafter has granted additional compensation of Rs. 2,500/- as loss of estate, 2000/- as funeral expenses and 5000/- as loss of consortium and has quantified the total compensation to be Rs. 2,97,500/- and has directed for its payment with 7% interest per

annum from the date of filing of claim till its realization and aggrieved by quantum of compensation present appeal has been filed on behalf of claimants for enhancement of compensation amount.

7. On the basis of admitted facts, this Court re-assesses the amount of compensation as follows:-

Annual income	Rs. 54,000/-
Future prospects (10%)	Rs. 5,400/-
Total income	Rs. 59,400/-
Personal expenses(1/4th)	Rs. 14,850/-
loss of dependency	Rs. 44,550/-
Multiplier (9)	Rs. 4,00,950/-
Conventional heads	Rs. 70,000/-
Total	Rs. 4,70,950/- (Rupees four lacs seventy thousand nine hundred fifty only)

8. The Insurance Company is directed to pay the remaining amount of compensation after deducting the compensation amount already paid to the claimants from Rs. 4,70,950/- (Rupees four lacs seventy thousand nine hundred fifty only) with 7% interest on remaining payable amount from the date of filing of claim petition till its realization within two months from the date of production/receipt of a copy of order

passed by this Court.

9. Miscellaneous Appeal is allowed to the extent as indicated above.

10. Let the L.C.R. be returned to the court concerned forthwith.

(S. Kumar, J)

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AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	03.08.2019
Transmission Date	N.A.