IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.408 of 2016

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Divisional Manager United India Insurance Company Ltd., Anugrah Narainpuri Colony, Gaya, Appeal and Appellant through the Manager & Authorized Signatory, Regional Office, United India Insurance Company Limited, 3rd Floor, Chanakya Towers, R' Block, Patna

... O.P.-1 ... Appellant/s

Versus

1) Umesh Prasad Swarnkar, s/o Lt. Kanhay Lal
2) Rekha Devi, D/o Umesh Prasad Swarnkar
3) Puja Verma, S/o Umesh Prasad Swarnkar
4) Shiwank Kumar Verma, S/o Umesh Prasad Swarnkar

(Claimant No.3-4 are minor and under guardianship of mother, Res.2) All are resident of Fatehpur More, Paijana Road, P.S. Fatehpur, Dist, Nawada

….Claimants /Respondents

5) Arvind Yadav, S/o Jagdish Yadav,

Resident of Bishiaayat, P.S. Sirdala, Dist, Nawada (Owner cum driver) O.P.2/ Respondent

...O.P. -2 / ... Respondent/s

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Appearance :
For the Appellant/s : Mr. Durgesh Kumar Singh
For the Respondent/s : Mr. Niraj Kumar

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CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT
Date : 02-07-2019

Heard the parties.

2. This miscellaneous appeal has been filed on behalf of the United India Insurance Company against the judgment dated 22.01.2015 and Award dated 30.03.2015 passed by the Motor Vehicle Accident Claims Tribunal, Nawada in Claim Case No.20/2012/40 of 2014.

3. It has been submitted on behalf of the learned counsel for the appellant that Tribunal has committed error by making deduction of $1/3^{rd}$ of annual income of the deceased whereas he was unmarried as such, deduction should be half of the annual income. The Tribunal has assessed the annual income of deceased on notional basis to be Rs.36,000/- and has deducted $1/3^{rd}$ as his personal expenses and has assessed the loss of income to be Rs.24,000/-. The age of the deceased at the time of death was 19 years and multiplier of 16 has been taken and Tribunal has assessed the compensation to be Rs.3,84,000/- and has further added Rs.2,500/- for loss of estate, and Rs.2,000/- for funeral expenses and has assessed the total amount of compensation as Rs.3,88,500/- with interest @ 6% per annum to be paid to the claimant.

4. On the basis of admitted facts the quantum of compensation is re-assessed by this Court:-

(i) Annual Income (Notional)	**=**	**Rs. 36,000/-**
(ii)Personal Expenses (50%)	**=**	**Rs. 18,000/-**
(iii) 40% future prospect	**=**	**Rs. 7,200/-**
(iv)Total income	**=**	**Rs. 25,200/-**
(v) Multiplier	**=**	**18**
(vi)Loss of dependency (25,200x18=4,53,600)	**=**	**Rs.4,53,600/-**
(vii)Loss of Estate	**=**	**Rs. 15,000/-**

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

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

Total = Rs.5,23,600/-

5. The respondent authorities are directed to pay compensation of Rs. 5,23,600/- as quantified above with interest @ 6% per annum from the date of filing of application till its payment.

6. It has been submitted on behalf of the appellant that the vehicle was running without any valid permit and driver of the vehicle was not having valid licence to drive the vehicle as such Insurance Company is not liable to indemnify the owner. In spite of valid service of notice the owner and driver of the offending vehicle who were made opposite party no. 2 before the Tribunal did not appear and the proceeding was decided against him *ex parte*.

7. Liberty is granted to the Insurance Company that if there has been any violation of terms and conditions of insurance policy, the insurance company would be at liberty to recover the amount from the owner of the offending vehicle.

8. The Insurance Company is directed to pay the compensation amount of Rs. 5,23,600/- to the claimant along with interest @ 6% from the date of application till its realization after making deduction of the amount paid to

claimants within three months from the date of receipt/production of a copy of order passed by this Court.

9. This miscellaneous appeal is disposed of.

10. Let the L.C.R. be immediately returned to the concerned Tribunal.

(S. Kumar, J)

Sanjay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	15.07.2019
Transmission Date	NA