

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.153 of 2015

Geeta Devi wife of late Radheshyam Gupta resident of Mohalla- Aryasamaj
road,Raxaul, P.s Raxaul , District East Champaran.

... .. Appellant/s

Versus

1. Bihar State Road Transport Nigam and ANR
2. The United India Insurance co- ltd through its the Divisional Manager U.I.I.
Co ltd Muzaffarpur

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Madhurendra Kumar, Advocate
For the Respondent/s : Mr. Kundan Bhadur Singh

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

5 14-10-2022 Heard learned counsel for the claimants-appellants
and learned counsel for the United India Insurance Company Ltd
(hereinafter referred to as ‘the Insurance Company’).

The instant appeal has been preferred by the claimants-appellants against the judgment dated 8.1.2015 passed in Claim Case no. 3 of 2008/5 of 2014 whereby the learned Motor Vehicle Accident Claim Tribunal-cum-Addl. District Judge XII, Motihari, East Champaran was pleased to order that the claimants was entitled for compensation to the tune of Rs. 2,45,000/- with simple interest at the rate of 9% from the date of filing of the claim petition till its realization.

The facts in brief are that the deceased Amit Kumar @ Amit Gupta started from his house by a bus of the Bihar State



Road Transport Corporation for going from Raxaul to Patna. On 11.5.2007 the bus in which the deceased Amit Kumar was traveling, on reaching 'Gandhi Setu' under the Vaishali District, fell in the Ganga river due to rash and negligent driving of the driver. Several passengers of the bus including Amit Kumar died on the spot. An FIR being Gandhi Bridge P.S. Case no. 144 of 2007 was registered.

It is the case of the claimant that the deceased Amit Kumar was a brilliant student and at the time of his accident was aged about 19 years and was in training in the Air Hostess Training Institute, Mahveerganj, Varanasi. He was unmarried. It is submitted that the future of the deceased was very bright and he was undergoing training at the above institute. The future prospect of income of the deceased was Rs. 25,000/- per month.

Notices were issued to the opposite parties. The Bihar State Road Transport Corporation did not appear, however, the Insurance Company appeared through its Branch Manager and filed their written statement contesting the claim petition filed by the claimants-appellants.

After hearing the parties and having gone through the materials on record, by judgment dated 8.1.2015 the learned tribunal was pleased to hold that the claimant was entitled for



compensation to the tune of Rs. 2,45,000/- along with simple interest at the rate of 9 %.

The instant appeal has been preferred by the claimant-mother of the deceased on the limited points that the learned Court below in computing the total compensation did not add the amount of 40% under the head of future prospect and also committed an error in computing the annual income of the deceased by using the multiplier of 13 based on the age of the mother of the deceased.

On the other hand, learned counsel appearing for the insurance company opposed the contention of learned counsel for the appellant and submitted that the deceased not having a permanent job will not be entitled for any amount under the head of future prospect.

Having heard learned counsel for the parties and taking into consideration the submissions made, the Court comes to the following conclusions :-

(i) The notional income of the deceased who was aged about 19 years and was admittedly unemployed on the date of the fatal accident would be notionally taken as Rs. 3,000/- per month ie. Rs. 36,000/- per annum.

(ii) In view of the judgment in the case of Sarla Verma



v. DTC [(2009) 6 SCC 121] and more particularly paragraph no. 32 thereof a net 50% would be deducted as personal and living expenses of the deceased who was a bachelor.

(iii) In view of the judgment in the case of National Insurance Company Ltd v. Pranay Sethi [(2017) 16 SCC 680 and more particularly paragraph no. 59.7 thereof together with the ratio of the judgment in case of Amrit Bhanu Shali v. National Insurance Company Ltd [(2012) 11 SCC 738] and more particularly paragraph no. 15 thereof, the age of the deceased and not the age of the dependent would be the basis for selection of multiplier. Thus, in view of paragraph no. 42 of the judgment in the case of Sarla Verma (supra), the age of the deceased being 19, the multiplier in the case will be 18.

(iv) So far as the amount under the conventional head is concerned, in view of the judgment in the case of Pranay Sethi (supra) and specially paragraph nos. 52 and 59.8 thereof, taking into consideration that the deceased was unmarried, he would be entitled to the tune of Rs. 15,000/- under the head of loss of estate and Rs. 15,000/- for funeral expenses, with enhancement at the rate of 10% for every 3 years.

(v) So far as the head of future prospect is concerned, in view of paragraph no. 59.3 of the judgment in the case of



Pranay Sethi (supra) the deceased not having a permanent job and in fact in the instant case being unemployed, would not be entitled for any amount under this head.

Thus, in view of the fact stated herein above, in the opinion of the Court, the computation of the total amount of compensation payable will be as follows :

(i) Yearly income (computed on the basis of notional income of Rs. 3000/- per month)		Rs. 36,000.00
(ii) Multiplier (x18)		<u>Rs. 6,48,000.00</u>
(iii) Less 50% (personal and living expense)		<u>(-) 3,24,000.00</u>
		Rs. 3,24,000.00
(iv) Conventional heads		
(a) Loss of estate	15,000.00	
(b) Funeral Expense	<u>15,000.00</u>	
	30,000.00	
(c) Add 10 % every 3 years	<u>15,000.00</u>	
	45,000.00	
(v) Total compensation		<u>Rs. 3,69,000.00</u>

The claimants stand entitled for a total compensation to the tune of Rs. 3,69,000/-. Deducting the sum of Rs. 50,000/- together with any other amount which has already been paid to the claimant, the insurance company will pay the balance amount to the claimant with simple interest at the rate of 9% p.a calculated from the date of filing of the claim case till its realization.



The judgment and award passed by the learned Tribunal stands modified to the aforementioned extent.

The appeal stands allowed.

Let the statutory amount deposited by the appellant be remitted to the Court of learned Motor Vehicle Accident Claim Tribunal-cum-Additional District Judge XII, Motihari, East Champaran for its disbursement in accordance with law.

(Partha Sarthy, J)

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