IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.631 of 2016

==

1. Usha Devi wife of Sri Ramanand Sharma
2. Ramanand Sharma son of late Ayodhya Sharma

   Both resident of Village- Maniya P.O.- Mangain P.S.- Sangrampur Dist.- Munger at present at C/O Rampati Sadan, Ram Ratan Lane, Adampur Ghat, Near Kali Mandir P.S.- Adampur Dist.- Bhagalpur.

... ... Appellants

Versus

1. Arbind Kumar Singh son of Sri Hari Nandan Prasad Singh resident of Mohalla- Pokhrafilha, C.D.N. Singh Road, Deoghar, P.S. & Dist. Deoghar.
2. Pran Mohan Yadav son of Late Pitambar Yadav resident of village- Basmati P.S.- Palwori Dist.- Deoghar.
3. Branch Manager, The Oriental Insurance Company LTD, Deoghar at Jageshanti Market Comples, Netaji Subhash Road, Deoghar (Insurer of the vehicle).
4. Division Manager, The Oriental Insurance Company LTD, RBSSS Road, Bhagalpur.

... ... Respondents

==

Appearance :

For the Appellants	:	Mr. Vivekanand Vivek, Advocate
	:	Mr. Rang Nath Pandey, Advocate
	:	Mr. Debesh Kumar, Advocate
For the Respondents	:	Mr. Sanjay Singh, Advocate

==

CORAM: HONOURABLE MR. JUSTICE KHATIM REZA

ORAL ORDER

10 17-08-2023 This Miscellaneous Appeal has been filed against the judgment and award dated 07.12.2015 (for enhancement of compensation) granted in Claim Case No. 131 of 2012 by the learned District Judge-cum-chairman, Motor Accident Claims Tribunal, Bhagalpur whereby the claim petition was allowed and respondent No. 3 was directed to pay amount of compensation i.e., Rs. 6,09,048/- with 6% interest per annum from the date of filing of the claim case.

2. Learned Tribunal has held that deceased aged about 31 years old was unmarried and was earning 53,760/- (per annum. The deceased was 31 and hence, the multiplier of 17 will be applied for multiplying the income of the deceased and it will come to Rs. 53760/- X 17 = Rs. 913920/-. Since the deceased was unmarried at the time of the accident, hence, out of total income, computed compensation shall be reduced to half in consideration of expenses which victim would have incurred towards maintaining himself if he would have been alive. Therefore, the annual income of the deceased after deducting his personal expense to the extent of half i.e., Rs. 913920 – 456960 = 456960/-. The Tribunal further added 30% for future prospect i.e. 1,37,088 and it amounts to 5,94,048. It is further held that the claimants will also get Rs. 5,000/- (Five Thousand) each as funeral expenses, for loss of estate and cost of litigation and the total amount comes to Rs. 6,09,048/- out of which the claimants have already received Rs. 50,000/- (Fifty Thousand) under Section 140 of the Motor Vehicle Act. Hence, the claimants are entitled to get Rs. 5,59,048/- with interest at the rate of 6% per annum from the date of filing of the claim case from the Insurance Company and held that the Insurance Company will be at liberty to recover the awarded amount from the owner after the payment.

3. Aggrieved by this judgment and award passed by the Claims Tribunal, the claimant filed the present Miscellaneous Appeal and challenged the aforesaid judgment and award. The learned counsel for the appellant submits that the Tribunal erred in calculating the income of the deceased. Ext 14 is the certificate issued by the employer of the deceased regarding annual package of the deceased at the time of the accident and it shows he was earning 1,14,000/- annually. The appellant placed reliance on judgment by Patna High Court in ***Priyanka Jha and Ors. Vs Karpura Devi and Anothers*** passed in ***MA No. 66 of 2012,*** wherein this court has considered all the components like HRA, Special allowance, other reimbursable benefits, festival bonus, medical insurance and gratuity of salary along with Basic salary in computing the quantum of the compensation.

4. The case of the claimant, in short, is that the deceased Rajeev Ranjan died on 27/10/2011, when he was going on a bike for work of his company, in vehicular accident near Trinagar village situated at Deoghar caused by rash and negligent driving of the driver of mini truck bearing No. BR-40-3446 and F.I.R. was registered under section 279 and 304A of

Indian Penal Code. The claim application was filed by his mother i.e. Usha Devi and father i.e. Ramanand Sharma. It is further contended that Rajiv Ranjan had been badly injured in the accident and died on the spot. It is contended that the deceased at the time of the accident was working as Territory Officer of ACME Therapeutics (I) Pvt. Ltd. at Deoghar and had gross salary of Rs. 10,222/- per month. It is also stated that Rajiv Ranjan was healthy and whole family was dependent upon his earnings.

5. On summons, respondent No. 1 i.e. Arbind Kumar Singh, who is the owner of the vehicle, and respondent No. 3 Oriental Insurance Co. Ltd. had filed written statement and exhibited Ext. 13**,** which shows that the offending vehicle was covered under the insurance with Oriental Insurance on the date of the accident i.e. 27/10/2011.

6. The learned Tribunal after analyzing evidences adduced by the parties, materials on record, has held that the vehicular accident caused by rash and negligent driving of mini truck bearing No. BR-40-3446 resulted into death of Rajiv Ranjan on 27/10/2011 and further held that insurance was valid and effective on the date of accident. On the basis of the evidence adduced by the parties, it was held that the deceased was of 31 years of age at the time of the alleged accident and he was working as a Territory Officer of ACME Therapeutics (l) Pvt. Ltd. at Deoghar was earning 1,14,000/ per annum which included basic salary, Provident Fund, HRA, Conveyence, medical kit, dearness and special allowance. The tribunal further held that since the deceased was a marketing agent, the company tend to give different allowance to marketing agent to meet daily journey expenses. Hence, the tribunal considered only basic salary of 48,000 and provident fund of 5,760/- which amount to 53,760/-, for the purpose of calculation of quantum of compensation.

7. The learned Tribunal accordingly, held that the deceased was 31 and hence, the multiplier of 17 will be applied for multiplying the compensation amount of the deceased and it will come to Rs. 53760/- X 17 = Rs. 913920/-. Since the deceased was unmarried at the time of the accident, hence, out of total income, claimed compensation shall be reduced to half in consideration of expenses which victim would have incurred towards maintaining himself if he would have been alive. Therefore, the annual income of the deceased after deducting his personal expense to the extent of half i.e., Rs. 913920 – 456960 = 456960/-. The Tribunal further added 30% for future prospect i.e. 1,37,088 and it amounts to 5,94,048. It is further held that the claimants will also get Rs. 5,000/- (Five Thousand) each as funeral expenses, for loss of estate and cost of litigation and the total amount comes to Rs. 6,09,048/-

8. The learned counsel for the appellants has placed reliance on several decisions passed by the Hon'ble Supreme Court, wherein, the determination of age, income of the deceased, addition of income to future prospects, deduction towards personal and living expenses, multiplier based on age, loss of estate, loss of consortium and funeral expenses have been considered. The details of the judgments are as follows:-

*(i). **Sarla Verma Vs. D.T.C.** reported in **2009 (6) SCC 121,***

*(ii). **National Insurance Company Ltd. Vs. Pranay Sethi*** reported in ***2017 (16) SCC 680,***

*(iii). **Magma General Insurance Company Ltd. Vs. Nanuram*** reported in ***2018 (18) SCC 130.***

9. In the case of ***Magma General Insurance Company Ltd.*** (supra) the Hon'ble Supreme Court interpreted the word "consortium" to be a compendious term, which encompasses spousal consortium, parental consortium, filial consortium and further held that filial consortium is the right of the parents to compensation in the case of an accidental death of a child. An accident leading to death of a child causes great shock and agony to the parents and family of the deceased. The greatest agony for a parent is to lose their child during their lifetime.

10. With respect to the multiplier the Hon'ble Supreme Court in the case of ***Sarla Verma (Smt) (Supra)*** a chart was prepared for fixing the applicable multiplier in accordance with the age of the deceased after considering the judgments in ***Kerela SRTC Vs. Susamma Thomas*** reported in ***(1994) 2 SCC 176*, *U.P. SRTC Vs. Trilok Chandra*** reported in ***(1996) 4 SCC 362*** *and* ***New India Assurance Company Limited Vs.Charlie*** reported in ***(2005) 10 SCC 720.*** The relevant extract from the said chart i.e. Column 4 has been set out herein below for ready reference:-

Age of Deceased	**Multiplier**
Upto 15 years	-
15-20	18
21-25	18
26-30	17
31-35	16
36-40	15
41-45	14
46-50	13
51-55	11
56-60	09

61-65	07
Above 65	05

11. In the case of ***National Insurance Co. Ltd. v. Pranay Sethi*, (Supra)** the Hon'ble Supreme Court has held that

> *"In case the deceased was self-employed or on a fixed salary, an addition of 40% of the established income should be the warrant where the deceased was below the age of 40 years. An addition of 25% where the deceased was between the age of 40 to 50 years and 10% where the deceased was between the age of 50 to 60 years should be regarded as the necessary method of computation."*

12. Further in the case of ***Raghuvir Singh Matolya & ors. V Hari Singh Malviya*** reported in ***2009(15) SCC 363*** the Hon'ble apex court has observed that dearness allowance and HRA should be included for computation of income of deceased. Reference in this regard be made to a decision of this in the case of ***Prinyanka Jha and others Vs. Karpura Devi and another*** passed in ***M.A. No. 66 of 2012.***

13. After analyzing all aspects of the matter as well as the details of the compensation amount under different heads in the light of the aforesaid decisions of the Hon'ble Supreme

Court as well as decision of this Court, the claimants are awarded compensation in the manner indicated in chart mentioned below and the judgment and award passed by the Claim Tribunal is enhanced to the aforesaid extent:-

S.No.	Particulars	Details
1.	NAME:-	Rajiv Ranjan
2.	AGE:-	31 years
3.	ANNUAL INCOME:-	Rs. 1,14,000/- (self – employed/ fixed salaried)
4.	ADDITION TO INCOME TO FUTURE PROSPECT(@40% DECEASED BEING LESS THAN 40 YEARS):-	Rs. 1,59,600 (1,14,000 + 45600)
5.	DEDUCTION TOWARDS PERSONAL & LIVING EXPENSES(1/2):-	Rs. 79800/- (1,59,600- 79,800)
6.	MULTIPLIER BASED ON AGE OF 31 YEARS:-	16
7.	AMOUNT OF COMPENSATION (79,800 X 16):-	Rs.12,76,800
8.	LOSS OF ESTATE:-	Rs. 15,000/-
9.	LOSS OF CONSORTIUM (FILIAL)	Rs. 40,000/-
10.	FUNERAL EXPENSES:-	Rs. 15,000 /-
11.	**TOTAL AMOUNT OF COMPENSATION:-**	**Rs. 13,46,800**

14. Accordingly, this Miscellaneous Appeal filed by the claimant-appellant is hereby allowed with modification in the quantum of compensation as aforesaid.

15. The amount of compensation as warded by the learned Tribunal is enhanced from Rs. 6,09,048/- (Six Lakhs Nine Thousand Forty Eight) with 6% interest to Rs. 13,46,800/- (Thirteen Lakhs Forty Six Thousand Eight Hundred) out of which Rs. 50,000/-(Fifty Thousand) has already been paid to them as an interim compensation. The enhanced amount shall carry interest at the rate of 6% per annum from the date of filing of claim petition till the date of realization. The due amount be paid by the Branch Manager, Deoghar and Division Manager of the Oriental Insurance Company Ltd., R.B.S.S.S. Road, Bhagalpur within a period of three months from today. The Insurance Company will be at liberty to recover the Award amount from the owner of the offending vehicle after the payment in accordance with law.

(Khatim Reza, J)

Shanu/-

U			