

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.1103 of 2016

1. Neelu Kumari wife of Late Ranjeet Kumar @ Ranjeet Kumar Singh @ Tinku Singh
2. Raj Laxmi Kumari (Minor) Daughter of Late Ranjeet Kumar
3. Shwetambri Kumari (Minor) Daughter of Late Ranjeet Kumar (Appellant No-2 and 3 are minors and they are represented through their mother Neelu Kumari as a natural guardian and next friend)
All Resident of Village-Badpur P.S. Maranchi Dist-Patna

... .. Appellant/s

Versus

1. Balmiki Yadav S/O Nageshwar Yadav resident of village Dayalpur P.S.- Bihpur Dist-Bhagalpur (owner of vehicle)
2. Indradev Paswan S/O Nageshwar Paswan resident of village-Hrio P.S. Bihpur Dist-Bhagalpur (Driver of Vehicle)
3. Manager, Reliance General Insurance Com. LTD 570, Naigaon Cross Road, Next of Royal Industrial Estate, Wadata (W), Mumbai 400031 (Insurer of the Vehicle)
4. Manager, Reliance General Insurance Com. LTD, Himaliya House (5th Floor) 38B, J.L. Nehru Road, Kolkata (W.B.)

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Vivekanand Vivek Mr. Rang Nath Pandey Mr.Dabesh Kumar Pandey
For the Respondent/s	:	Mr.Durgesh Kumar Singh

CORAM: HONOURABLE MR. JUSTICE NAWNEET KUMAR PANDEY

ORAL ORDER

6 16-02-2023 Heard the learned counsel for the appellants as well as the learned counsel for the respondents.

This appeal has been preferred by the widow and two minor children of the deceased, Ranjeet Kumar, who lost his life in an accident, arising out of lease of motor vehicle, for enhancement of the award.

As per averments, Ranjeet Kumar was a private Amin and he was earning Rs. 8000/- per month. The Tribunal



calculated the income of the deceased @ Rs. 6000/- per month and on that basis, the award was passed for Rs. 8,16,000/-. The learned Tribunal also granted Rs. 9,500/- for loss of estate, loss of consortium and funeral expenses.

The learned counsel for the appellants has submitted that as per recent decision of Hon'ble Supreme Court in the Case of *National Insurance Company Limited vs. Pranay Sethi & Ors.*, reported in (2017) 16 SCC 680, future prospect of the deceased was not considered and also loss of estate, loss of consortium and funeral expenses should be enhanced in the light of that judgment.

On the other hand, Mr. Durgesh Kumar Singh, the learned counsel for Insurance Company has submitted that the learned court below should have considered the income of the deceased on the basis of minimum wages payable to a skilled labour, but instead of calculating the income of the deceased on the basis of skilled labour, he calculated on the basis of oral evidence of the claimants, and thereby the learned Tribunal granted more compensation than the claimants actually deserved.

Since the company has not filed appeal against the award, the amount cannot be decreased. 40% enhancement is a



mandate of Hon'ble Supreme Court in case of *Pranay Sethi* towards the future prospect of the deceased. If this 40% is calculated even on the daily wages of a skilled labour, it comes to Rs. 2,30,574 to which the appellants are entitled. The appellants have already received Rs. 9,500/- in conventional head and after deduction of this amount from Rs. 77,000/- fixed by the Hon'ble Supreme Court, the rest amount comes to Rs. 67,500/- which is payable by the insurance company.

In addition thereto, Rs. 44,000/- shall be paid by the company/respondent towards parental consortium to both the children of the deceased each. The company/respondent has to pay an interest of 6% per annum from the date of filing of the claim petition.

Accordingly, this miscellaneous appeal is disposed of.

(Nawneet Kumar Pandey, J)

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