IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.448 of 2015

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1. Saroj Singh and Ors Wife of Late Jitendra Kumar
2. Abhishek Ranjan Son of Late Jitendra Kumar
3. Shashi Ranjan Son of Late Jitendra Kumar All C/o Rajeev Ranjan Son of Late Krishna Kumar Sharma, Resident of Village - Salaut Vishanpur Jayanayayan, P.S. Maniyari Dist.-Muzaffarpur

... ... Appellant/s

Versus

1. Saraswati Devi and Anr Wife of Ramakant Mishra R/o Moll Bhagawanpur P.S. Sadar Dist.-Muzaffapur
2. New India Insurance Co. Ltd. Siliguri through local Divisional Manager Divisional Ofice Poddar Compl

... ... Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Dhannjay Kumar No 2, Advocate
For the Respondent/s	:	Mr. Sanjay Singh, APP

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CORAM: HONOURABLE MR. JUSTICE NAWNEET KUMAR PANDEY
ORAL JUDGMENT
Date : 26-02-2024

Heard the learned counsel for the appellants as well as the learned counsel for the New India Insurance Co. Ltd (Respondent No. 2).

2. This appeal has been preferred against the judgment and award passed in Claim Case no. 74 of 2009 dated 07.07.2015 by the learned 4th Additional District Judge-cum -Motor Accident Claim Tribunal, Muzaffarpur whereby the learned Tribunal has awarded an amount of Rs. 11,22,436/- to the claimant for the death occurred arising out of use of a motor vehicle and interest at the rate of 2 % per annum was also given

by the Tribunal on the awarded amount.

3. Brief facts of the case is that the deceased Jitendra Kumar who is husband of appellant No. 1 and father of appellant Nos. 2 and 3 died in an accident on 17.03.2006 arising out of use of a motor vehicle bearing Registration No. BR-06 H9896 which was being driven rashly and negligently by the driver. At the date and time of death the deceased was a government employee, working as revenue karmachari in the Anchal.

4. Learned counsel for the appellants has submitted that the learned Tribunal has committed illegality in not considering the future prospect of the deceased while deciding the quantum of compensation. He has submitted that as per verdict of Hon'ble the Supreme Court in the case of *Sarla Verma (Smt.) and Others* reported in *(2009) 6 SCC 121* and *Pranay Sethi and Others* reported in *(2017) 16 SCC 680* the future prospect of the deceased has mandatorily to be considered while computing the quantum of compensation. In paragraph No. 61 of *Pranay Sethi* (supra) case, the Hon'ble Supreme Court has decided that if the deceased is in permanent job and the age of the deceased is between 40-50 years then 30% of his income should be added as future prospect and if the deceased is below 40 years,

50% of his income shall be considered for computation of his income in addition to his total income.

5. The second submission of the learned counsel for the appellants is that the learned Tribunal has awarded the interest at the rate of 2% per annum on the awarded amount which is inadequate and that should be awarded as per prevailing interest rate given by the bank on the day of filing of the petition.

6. Learned counsel for the Insurance Company has submitted that the rate of interest given by the learned Tribunal is adequate and need not be interfered with. There is no hard and fast law about awarding of rate of interest.

7. The third submission of learned counsel for the appellants is that Exhibit- 1 which is revised salary slip of the deceased shows that his revised salary is Rs. 15180/- per month which is applicable from 01.01.2006 but instead of taking into account the amount of Rs. 15180/- the learned Tribunal has committed error in computing the compensation at the rate of Rs. 9124/- which is the unrevised salary of the deceased.

8. Learned counsel for the respondent Insurance Company has submitted that the learned Tribunal did not commit any illegality while computing the compensation payable to the claimants at the rate of Rs. 9124/- as the claimant

themselves claimed that amount in their claim petition to which the learned counsel for the appellants has replied that at the time of filing of the claim petition the revised salary slip was not with the claimant and it was the reason that his salary was claimed in the claim petition on the basis of unrevised pay scale.

9. From perusal of Exhibit -1 which is revised salary slip issued by the Circle Officer, Paharpur, East Champaran, it is apparent that the revised salary with D.A of the deceased which was applicable from 01.01.2006 was Rs. 15180/- and it appears that while computing the compensation, the learned Tribunal did not consider review amount which ought to have been considered by him. The salary of the deceased was revised from 01.01.2006 which is prior to his death as such the claimants are entitled for the compensation as per revised salary of the deceased.

10. Considering the above mentioned facts and circumstances of the case, the matter is remanded back to the learned Court below for computation of the awarded amount on the basis of revised salary slip of the deceased in which his revised salary has been mentioned as Rs. 15180/- per month. The rate of interest awarded by the tribunal is also enhanced at the rate of 4% from the date of the award.

11. The future prospect shall also be considered at the rate of 30% as laid down in the case of Pranay Sethi (supra) by the Hon'ble Apex Court.

12. The learned Court below shall compute the compensation as per observation of this Court within 15 days from date of receipt of the LCR and the Insurance Company shall pay the remaining amount within a period of two months from the date of revised order of the learned Tribunal.

13. With these observations, the appeal is allowed.

(Nawneet Kumar Pandey, J)

Prakash/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	