(2015) 01 PAT CK 0145

In the Patna High Court

Case No : Misc. Appeal No. 328 of 2004

Kiran Devi and Others APPELLANT

Vs

Jaimangal Rai and Others RESPONDENT

Date of Decision : 07-01-2015

Acts Referred:

Citation : (2015) 2 PLJR 843

Hon'ble Judges : Akhilesh Chandra, J

Bench : Single Bench

Advocate : Vivekanand Vivek, for the Appellant; Syed Qaisar Hasan, Advocates for the Respondent

Final Decision : Disposed off

Judgement

Akhilesh Chandra, J—Heard the parties. This is an appeal preferred against the Judgment and Award respectively dated 20th May, 2004 and 28th May, 2004 passed by learned 3rd Additional District Judge-cum-Motor Vehicle Accident Claim Tribunal, Muzaffarpur in Claim Case No. 181 of 2002, awarding a sum of Rs. 8,45,320/- with interest @ 9% to compensate death of deceased, namely, Jagarnath Thakur, a permanent employee of Indian Oil Corporation at Barauni, who meet with an accident on 25th March, 2002 near Bakhari Chowk, P.S.-Ahiyapur, District-Muzaffarpur.

2. This is an appeal seeking enhancement of the compensation awarded and since other relevant facts relating to accident etc. is undisputed, there is no need to further narrate and consider the same.

3. The main ground for enhancement as taken and submitted that Claim Tribunal Below has based his finding on the basis of the salary drawn by the deceased in the month of February, 2002, i.e., in fact the salary of the concluding month to a financial year and this is general practice that salaried people draws lesser salary in particular month than the preceding.

4. The attention of the Court is drawn towards Exhibit-7, the income tax return

of the deceased indicating his gross salary round up to Rs. 2,24,350/- and the total amount of income tax comes to Rs. 40,500/- making the annual salary for the relevant period to Rs. 1,83,850/- round up to Rs. 1,84,000/- and in view of the decision of Hon''ble Apex Court in a case of Smt. Sarla Verma and Others Vs. Delhi Transport Corporation and Another, (2009) ACJ 1298 : AIR 2009 SC 3104 : (2009) CLT 1055 : (2009) 6 JT 495 : (2009) 6 SCALE 129 : (2009) 6 SCC 121 : (2009) 5 SCR 1098 : (2009) 5 UJ 2280 : (2009) AIRSCW 4992 : (2009) 3 Supreme 487 , Rs. 92,000/- is to be added as future prospects, making the same to Rs. 2,76,000/- and after deducting 1/3rd as personal expenditures, it comes down to original amount of Rs. 1,84,000/-.

5. Undisputedly, the deceased died at the age of 35 years, hence, the due multiplier applicable is 17, consequently, the total amount of compensation comes to Rs. 31,28,000/- added with Rs. 7,000/-, as granted by the Claim Tribunal Below towards other expenses etc., making the total amount up to Rs. 31,35,000/-.

6. In view of the above, the amount of compensation is enhanced to the extent stated above and respondent No. 3, the Insurer, is directed to make payment within a period of 2 months with interest @ 6% from the date of filing of application till date of actual payment deducting the amount already paid or validly offered earlier. Further, if the payment is not made within stipulated period by respondent No. 3, the Insurer, the rate of interest @ 6% may be enhanced up to @ 9%. With the above modification in Award, as imposed by the Claim Tribunal Below, this appeal stands disposed of.