
(2011) 10 PAT CK 0028
In the Patna High Court
Case No : Misc. Appeal No. 67 of 2005

Leela Devi Sah and Others

APPELLANT

Vs

Mishri Roy and Others

RESPONDENT

Date of Decision : 15-10-2011

Acts Referred:

Motor Vehicles Act, 1988 — Section 173

Citation : (2012) 1 PLJR 750

Hon'ble Judges : Rakesh Kumar, J

Bench : Single Bench

Advocate : Rajeev Ranjan Sinha, for the Appellant; Durgesh Kumar Singh, for the Respondent

Final Decision : Allowed

Judgement

Rakesh Kumar, J.—The present appeal u/s 173 of the Motor Vehicles Act, 1988 (hereinafter referred to as M.V. Act) has been preferred against the judgment dated 19.4.2004 and award dated 27.4.2004 in Claim Case No. 62 of 2002 passed by 1st Additional District Judge-cum-Motor Vehicles Accident Claim Tribunal, Patna (hereinafter referred to as the Claims Tribunal). By the impugned judgment and award, the learned Claims Tribunal has directed respondent no. 3/ Insurer of the offending vehicle i.e. United India Insurance Company Ltd. to pay total compensation amount of Rs. 2,50,000/- to the claimants/appellants. Brief fact of the case is that in a motor vehicle accident, the husband of appellant no. 1, namely, Jagarnath Sao died. The offending vehicle was insured by the United India Insurance Company Ltd./respondent no. 3. After the death claim petition was filed and thereafter, by the impugned judgment and award, the learned Claims Tribunal has directed for payment of compensation amount as indicated above.

2. Dissatisfied with the compensation amount, the present appeal has been preferred.

3. Shri Rajiv Ranjan Sinha, learned counsel for the appellants has confined his argument to the point that the Claims Tribunal has specifically, on the basis of evidence on record, recorded finding that the deceased was having monthly income of Rs. 3,000/- and thereafter, the learned Tribunal had come to the conclusion that total compensation amount was Rs. 4,41,500/- inclusive of funeral expenses as loss of consortium as well as loss of estate. However, without any rhyme and reason, the learned Claims Tribunal has directed for payment of Rs. 2,50,000/- as compensation amount.

4. Shri Durgesh Kumar Singh, learned counsel appearing on behalf of the respondent/Insurer submits that after the judgment and award, the compensation amount i.e. Rs. 2,50,000/- with interest has already been paid to the claimants. He further submits that since the Claims Tribunal itself had granted compensation amount of Rs. 2,50,000/- despite earlier recording finding of the compensation amount of Rs. 4,41,500/-, the Insurance Company did not prefer any appeal against the finding of the court. It was submitted that had it been done the insurer could have challenged the same. It was further submitted that in compliance with the award, the payment has already been made. On perusal of the impugned order, it is not in dispute that the learned Claims Tribunal, on the basis of evidence on record, had come to the conclusion that deceased was having income of Rs. 3,000/- per month.

5. Since the tribunal had already recorded its finding on the income of deceased and compensation of Rs. 4,41,500/-, the court is of the opinion that there was no reason for the tribunal to come to a different conclusion that too without any cogent reason.

6. Shri Durgesh Kumar Singh, learned counsel for the Insurer, in view of specific finding recorded by the Tribunal regarding total compensation amount of Rs. 4,41,500/- does not dispute the contention of the claimant, but it was submitted that the Insurance Company may not be levied with interest at least from the date of filing of the appeal before this Court. Learned counsel for the appellant has also agreed on the point of interest.

7. In view of the facts and circumstances as well as stand taken by the parties, the court is of the opinion that the appeal can be allowed in terms of the finding of compensation amount on the basis of monthly income of the deceased, which was noticed by the court below as Rs. 3,000/- and as such the appeal stands allowed directing the respondent no. 3 to make payment of remaining amount i.e. Rs. 1,91,500/- along with interest at the rate of 5% per annum from the date of filing of the claim petition till the date of filing of the present appeal i.e. 11.2.2005. This order has been passed with the consent of both the parties. The payment must be made within a period of two months from the date of receipt/production of a copy of this order.