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(2014) 04 JH CK 0027

In the Jharkhand High Court

Case No : Misc. Appeal No. 115 of 2012

Mostt. Keshiya Devi and Others — APPELLANT

Vs

Sunil Singh, Pankaj Singh and The New India Assurance Co. Ltd. — RESPONDENT

Date of Decision : 29-04-2014

Acts Referred:

Citation : (2014) 3 JLJR 111

Hon'ble Judges : Dhrub Narayan Upadhyay, J

Bench : Single Bench

Advocate : Vijay Kumar Sharma, Advocate for the Appellant; Nisha Thakur, for the Respondent No. 3, Advocate for the Respondent

Judgement

Dhrub Narayan Upadhyay, J.—Being aggrieved by and dissatisfied with the judgment and award dated 3.5.2012 passed by the District Judge, 1 cum Motor Vehicles Accident Claims Tribunal, Chatra, in Claim Case No. 28 of 2006, the claimants have preferred this appeal for enhancement of the compensation amount awarded by the tribunal.

2. Learned counsel has confined his arguments only to the extent that there are five dependents and, therefore, the principle laid down by the Hon''ble Supreme Court in the case of Smt. Sarla Verma and Others Vs. Delhi Transport Corporation and Another, has to be followed while deducting the amount to be incurred by the deceased on account of his personal expenses, had he been alive. Since there are five dependents, deduction towards personal expenses has to be made 1/4th instead of 1/3rd. Learned tribunal has accepted the annual income of the deceased to be Rs. 36,000/-(rupees thirty six thousand) and after deducting 1/4th towards personal expenses to be incurred by the deceased, it would come to Rs. 27,000/-. The tribunal has applied multiplier of 15 and therefore total compensation amount would come to Rs. 27,000/- x 15 i.e. Rs. 4,05,000/-.

3. Learned tribunal has not directed the insurance company to pay interest on

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the awarded amount. Rather, direction has been given to pay interest @ 6% per annum, if awarded amount is not paid within thirty days from the date of judgment. It is settled principle of law that the claimants are entitled to interest to be paid from the date of filing of application on the awarded amount. Since the tribunal has not calculated just and reasonable compensation, the same is liable to be modified.

4. Learned counsel appearing on behalf of the Insurance company has opposed the prayer.

5. I have gone through the impugned judgment and the judgment cited above. The apex court has given guidelines in para 30 of the judgment rendered in the case of Sarla Verma (supra) with regard to the deduction which has to be made towards personal expenses of the deceased. It is observed that considering the number of dependents, deduction towards personal expenses of the deceased is to be done.. I do admit that the tribunal has not followed the correct procedure in calculating the awarded amount of compensation and the tribunal has failed to follow the guidelines given in this regard by the apex court.

In course of arguments, learned counsel for the claimant appellants has agreed to receive lump sum additional compensation of Rs. 60,000/- (rupees sixty thousand), besides the compensation amount already paid to them.

6. Considering above aspects of the matter, I do not feel it desirable to do further exercise to calculate just and reasonable compensation.

In the circumstances, the respondent insurance company is directed to pay rupees sixty thousand as additional compensation to the claimants within sixty days from the date of this order, failing which the additional amount of compensation shall carry interest at the rate of nine per cent per annum till realization of the amount.

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