
(2001) 11 PAT CK 0022
In the Patna High Court
Case No : L.P.A. No. 196 of 2001

National Insurance Co. Ltd.	Vs	APPELLANT
Smt. Meena Devi and Another		RESPONDENT

Date of Decision : 26-11-2001

Acts Referred:

Citation : (2002) 1 PLJR 324

Hon'ble Judges : R.S. Garg, J; Nagendra Rai, J

Bench : Division Bench

Final Decision : Allowed

Judgement

1. Heard counsel for the parties.
2. This appeal is being disposed of at the admission stage itself.
3. This appeal is directed against the order dated 18.1.2001, passed by the learned Single Judge in M.A. No. 149 of 1993 [reported in National Insurance Co. Ltd. Vs. Meena Devi and Another, upholding the order of the Tribunal awarding compensation under the provisions of the Motor Vehicles Act.
4. The brief facts of this case are that the husband of the claimant was the driver of a jeep and he died in an accident. The widow filed a claim case before the Tribunal which was numbered as claim case No. 21 of 1990. The Tribunal having noticed that the monthly income of the deceased was Rs. 1000/- and he was aged about 30 years, came to the conclusion that the period of survival of the deceased would have been 60 years and accordingly by applying multiplier of 30 fixed the amount of compensation to be paid to the deceased as Rs. 3,60,000/-. The Appellant filed an appeal against the award which has been dismissed as stated above.
5. The learned Counsel appearing for the Appellant submitted that maximum multiplier to be applied for determining the amount of compensation in terms of the provision of the Act and the law laid down by the Supreme Court is 18

whereas the Tribunal has wrongly applied multiplier of 30. He further submitted that while computing the income of the deceased the personal expenses to the extent of 1/3rd of the monthly income of Rs. 1000/- has not been excluded. The learned Counsel for the Respondents on the other hand supported the order of the Tribunal upheld in appeal.

6. There is no dispute that in no case a multiplier above 18 can be applied for fixing the amount of compensation under the provisions of the Act. Accordingly the use of multiplier of 30 for determining the amount of compensation was contrary to law.

7. The law is equally well-settled that while determining the amount of monthly income of the deceased the personal expense has to be excluded which is generally one-third or one-fourth of the personal income. The same has also not been done by the Tribunal. Thus, both the submissions advanced on behalf of the Appellant are well-founded.

8. Taking into consideration the facts of the case, we are of the view that it is fit case where maximum multiplier of 18 should be applied. Both the Tribunal and the learned Single Judge have found that the deceased had a monthly income of Rs. 1000/-. The learned Counsel for the Appellant has not shown any material to take a different view so far the income of the deceased is concerned. However, one-third out of the aforesaid amount has to be deducted as the personal expenses. If the annual dependency after excluding the personal expenses is multiplied by applying multiplier of 18 the total amount comes to Rs. 1,44,000/- in place of 3,60,000/- as fixed by the Tribunal and upheld by the learned, Single Judge. To the aforesaid amount the funeral expenses as well as consortium should also be added which have not been allowed by the Tribunal. Let Rs. 3000/- each be allowed under both the heads. Thus, the total amount of compensation comes to Rs. 1,50,000/-.

9. In the result, the appeal is allowed and the amount of compensation is reduced to Rs. 1,50,000/-. The statutory amount deposited at the time of filing of the appeal by the Appellant should be paid to the Respondents and the remaining amount of compensation shall be paid by the Appellant to the Respondents within a period of two months from today.