(1999) 05 PAT CK 0015

In the Patna High Court

Case No : M.A. No. 444 of 1998

National Insurance Company Ltd. and Another — APPELLANT

Vs

Bibi Gulsan and Others — RESPONDENT

Date of Decision : 13-05-1999

Acts Referred:

Citation : (1999) 3 PLJR 465

Hon'ble Judges : B.P. Sharma, J

Bench : Single Bench

Advocate : Harendra Kumar Singh, for the Appellant; A.K. Choudhary, Krishna Mohan and Diwakar Upadhayaya, for the Respondent

Judgement

B.P. Sharma, J.—Apart from other things, it was submitted on behalf of Appellants that so far as the award of the Tribunal is concerned, the amount of compensation has been fixed in arbitrary manner. It is submitted that the case of the claimant, her husband deceased was a driver and he was earning Rs. 3,500/ - (three thousand five hundred) per month but actually neither any driving licence of the deceased was produced nor any document was produced in court to show as to what was his monthly income. The employer, if any, of the deceased was also not examined. Therefore, it is submitted that the deceased was not a driver. He shall be treated as an unskilled leader (labourer?) for which the income has to be computed on the basis of minimum wages prescribed for unskilled labourer which is Rs. 30/- (thirty) per day. There is substance in the contention that in absence of any evidence to the effect that the deceased was a driver or that he was earning Rs. 3,500/ - per month, the fixation of his monthly income at Rs. 3,000/ - appears to be arbitrary. it was so done by the Tribunal after rejecting the plea of the claimant that the deceased was earning Rs. 3,000/ - per month as a driver. So if the income of the deceased is computed @ Rs. 30/ - per day throughout the year, it comes to Rs. 900/ - per month and if 1/3rd standard deduction is made, then it comes to Rs. 600/ - per month, i.e. Rs. 7,200/ - per year. The multiplier of seventeen has been applied and the multiplier application leads to the annual (sic) income of Rs. 1,22,400/ - (one lac, twenty two thousand and four hundred. Apart from this, a consortium of Rs. 5,000/ - (Five thousand) and the funeral expenses of Rs. 2,000/ - (two thousand is added and then it comes to Rs. 1,29,600/ - (One lac twenty nine thousand and six hundred). It can be rounded up to Rs. 1,30,000/ - (one lac thirty thousand) as the estimated loss of the family which has to be compensated.

2. Accordingly, the award is modified to this extent that the claimant Respondent shall be entitled to get Rs. 1,30,000/ - (one lac thirty thousand) by way of compensation. So far as the rate of interest is concerned, it has been allowed as six per cent per annum but that does not appear to be appropriate. The rate of interest has been accepted as 12 percent being the maximum payable and the claimant Respondent in this case is also entitled to get simple interest at the rate of 12 per cent per annum over the amount as calculated above. There is no other point for consideration, as the counsel for the parties agreed regarding the findings of the trial court.

3. Accordingly, the award of the trial court is modified to this extent that the claimant Respondent No. 1 shall be entitled to get Rs. 1,30,000/ - as compensation with interest at the rate of 12 per cent per annum. She will get it on her behalf as well as on behalf of minor Respondents nos. 2 to 5, under her guardian-ship. According to the scheme presently under practice, some amount is deposited to the credit of the claimants for the purpose of benefit of the minor claimants. Accordingly 50 per cent of the amount, thus, payable to the Respondents shall be deposited in the account in favour of minor claimant-Respondent Nos. 2 to 5 and the rest 50 percent shall be paid to the claimant-Respondent No. 1.

4. In this regard it has ben pointed out that the statutory deposit of Rs. 25,000/ - (twenty five thousand) has been made in this Court and the claimant Respondents shall be allowed to receive that amount. Counsel for the Appellants has no objection to it. If the amount is withdrawn by the Respondent No. 1, the same shall be adjusted from the total amount to be received by her.

Accordingly, this appeal is disposed of.