

(1996) 10 PAT CK 0010

In the Patna High Court

Case No : Misc. Appeal No. 193 of 1996 (R)

National Insurance Company Ltd.

APPELLANT

Vs

Mosmat Jhubri Devi and Others

RESPONDENT

Date of Decision : 07-10-1996

Acts Referred:

Citation : (1997) 1 PLJR 451

Hon'ble Judges : P.K. Deb, J

Bench : Single Bench

Advocate : Ram Kishore Prasad and Pradeep Kumar, for the Appellant; Sachida Nand Lal and Maheswar Prasad, for the Respondent

Final Decision : Dismissed

Judgement

P.K. Deb, J.—This appeal has been preferred by the above named insurance company against the judgment and award passed by the 3rd Additional Judicial Commissioner-cum-Motor Vehicle Accident Claims Tribunal, Ranchi, in compensation case No. 137/10 of 1991/93. The judgment and award was passed on 10.9.93. This appeal was filed on 16.7.96. The appeal is definitely barred by limitation for 2-1/2 years. In the condonation petition, it has been stated in para 4 that the disposed of records were deposited in the record room (disposal room) and inspite of best efforts of Sri Nand Kumar Rai, advocate of the lower court, the certified copy could not be received in time and when the disposed of record could be made available, then he got the stamp and folios produced from outside station and then get certified copy prepared and then filed the appeal. Annexure-A, letter of that Sri Nand Kumar Rai written to the Divisional Manager of the Appellant-company clearly shows that application for certified copy was made on 16.3.96.

2. Mr. Ram Kishore Prasad submitted that on earlier occasion also, application for certified copy was filed, but the same could not be entertained as the records were not traceable, but no such statement is there in the condonation petition. Thus, I find that there is no scope to admit the appeal after such belated period

when there were laches on the part of the learned advocate of the insurance company in the lower court in making application for certified copy for about 2 1/2 years after the judgment was delivered.

3. On challenging the quantum of the compensation as granted by the lower Court, Mr. Ram Kishore Prasad has referred to a judgment of 1996 passed by the Apex Court that 18 can at best be the maximum multiplier in compensation claim for the purpose of calculating dependency, but here, multiplier was used as 19, while the deceased was aged about 50 years. On the other hand, Mr. Sachida Nand Lal, appearing for and behalf of the claimants-Respondents submitted that even if the multiplier be lessened, then also the amount of compensation would come to the same quantum as the learned tribunal did not consider at all the future increments and increase in the salary of the deceased.

4. When the appeal is hopelessly barred by limitation, there is no scope to enter into the merits of the case and hence the appeal is rejected having barred by limitation.