

(2000) 12 PAT CK 0025
In the Patna High Court
Case No : M.A. No. 134 of 1999

National Insurance Company Ltd.

APPELLANT

Vs

Surendra Prasad Singh and Others

RESPONDENT

Date of Decision : 01-12-2000

Acts Referred:

Citation : (2001) 1 BLJR 280

Hon'ble Judges : S.K. Chattopadhyay, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

S.K. Chattopadhyay, J.—Heard learned Counsel for the appellant and respondent No. 1-claimant on the petition (I.A. No. 7708/99) in which a prayer has been made to condone five days delay in filing the appeal. Counsel for respondent No. 4, though has appeared but did not come to Court to oppose the prayer made in this petition.

2. Having heard the Counsel and going through the statements made in the application, I am satisfied that sufficient ground has been made to condone the delay in filing the appeal. In the circumstances, prayer is allowed and the delay in filing the appeal is condoned.

3. Heard learned Counsel for the parties and with their consent, this appeal is being disposed of at the admission stage itself.

4. The Insurance Company-appellant has impugned the Award dated 19.12.1998 of the Motor Vehicles Claim Tribunal on three counts, (1) the offending vehicle being not insured with the appellant-company, the appellant is not liable to pay any compensation, (ii) the Tribunal has committed error in applying the multiplier system and (iii) the rate of interest at the rate of 25 per cent is excessive and beyond the scope of the claim case.

5. So far as the factum of accident is concerned, learned Counsel for the

appellant fairly does not dispute the same. However, his contention is that Bus No. BRI-9112 was not insured by the National Insurance Company but even then the Tribunal has directed the appellant to pay the compensation. In my view, this submission does not hold good. To this effect as to whether the concerned vehicle was insured with the appellant-company, has been decided as Issue No. 5 by the Tribunal. It appears that the photo copy of the Insurance Policy was filed to show that this vehicle was insured with the appellant-company. The Tribunal has found that the case dairy of the case reveals that National Insurance Company is the insurer of this bus. Moreover, the insurance policy was valid from 17.6.1990 to 16.6.1991.

6. The Crown with all this, the appellant-Company also paid ad-interim compensation of Rs. 25,000/- without any hitch. However, during the trial, the appellant-company filed a petition stating that the vehicle was not insured by it but the same matter was decided on 29.7.1997 and the Tribunal found that the contention of the company was wrong and his name cannot be deleted because the same was insured by the appellant company.

7. Admittedly, the order dated 29.7.1997 was not impugned by the company before the appropriate forum and with this findings of fact, I am of the view that at this stage it cannot be interfered in this appeal.

8. However, so far as applying the multiplied system is concerned, I am of the view that the Tribunal has erred in applying the name. According to its findings, the deceased was getting Rs. 200/-per month and after deducting his personal expenses on 1/3 of salary, his contribution to the family was to the tune of Rs. 600/-per month. The Tribunal has applied the multiplied method of 16 considering the age of the deceased as 21 years and has awarded a sum of Rs. 1,15,200/-as total compensation.

9. In the case of United India Insurance Co. Ltd. v. Most. Meena Devi and Ors. 2000 (2) PUR 820, the settled law appears to be that the multiplier method should be applied and in applying the same, the correct multiplier should be found out in such a manner that compensation amount calculated in money value should be such which if invested in fixed deposit in bank or other financial institution any fetch to the dependants the amount of dependency available to them from the annual income of the deceased. Such a method will be just for both the parties because it is well recognised since long that a death in an accident, though always a sad event should not occasion a bonanza to the dependants of the deceased by way of compensation.

10. Thus, in my view, the contention on behalf of the appellant has force. In the facts of the case, in my view, the correct multiplier should be 10. If the annual dependency of Rs. 7,200/-is multiplied by 10, the amount will be Rs. 72,000/. The funeral expenses of Rs. 200/, the loss of state of Rs. 2,500 cash also be added to this amount Rs. 72,000/-. Though the aforesaid amount of funeral expenses, etc. has not been dealt with by the Tribunal in my view, for the ends of

justice, these amounts shall be added in the sum of Rs. 72,000/-. Thus the total sum comes to Rs. 80,500/-which in a round figure is Rs. 82,000/-.

11. So far as the amount of interest at the rate of 25 per cent is concerned, learned Counsel for the respondents fairly concedes that this rate is exorbitant and it should be at the rate of 12 per cent per annum. But, he submits that the interest should be given from the date of filing of the claim petition and not from the date of filing of the amendment petition for adding the Insurance Company as a party as submitted by the learned Counsel for the appellant.

12. There is no dispute of the fact that the claim petition was filed sometime in August 1990. Initially, the claimant did not make the Insurance Company a party and as such, no notice was issued and naturally, the Insurance Company had no information either about the accident or filing of the claim petition. On 14.6.1994, however, the claimant filed an amendment petition praying therein to add the Insurance Company as a party. Thus, the Insurance Company had knowledge from the date of filing of the amendment petition.

13. Under these circumstances, in my view, the appellant-Company cannot be made liable to pay interest from the date of filing of the claim petition. The same should be assessed from the date of filing of the amendment petition.

14. In the result, I hold that the respondents-claimant is entitled to a total sum of Rs. 82,000/- minus the amount of Rs. 25,000/- which has already been paid to the claimant. The said amount of Rs. 82,000/- excluding Rs. 25,000/-will be paid along with interest at the rate of 12 per cent P.A. from the date of filing of the amendment petition, that is 14.6.1994 till the money is deposited in the Tribunal. The said amount must be deposited before the Tribunal by the appellant-Company within six weeks from today.

15. This appeal is, thus, dismissed with the above modifications in the Award.