

(2000) 03 PAT CK 0173
In the Patna High Court
Case No : M.A. No. 233 of 1998

Oriental Insurance Co. Ltd.

APPELLANT

Vs

Anandi Devi and Others

RESPONDENT

Date of Decision : 10-03-2000

Acts Referred:

Motor Vehicles Act, 1988 — Section 171

Citation : (2000) 4 PLJR 307

Hon'ble Judges : Gurusharan Sharma, J

Bench : Single Bench

Advocate : Ajay Kumar, for the Appellant; Rijwan and I. Haque, for the Respondent

Judgement

Gurusharan Sharma, J.—Heard the parties and perused the records of M.V. Case No. 25 of 1990. Gourishankar Paswan, aged about 30 years of village Dinapatti, District-Saharsa was working as labourer on a tractor (BRU-6279) engaged in transporting sand. It was trapped in a ditch. Prabhu Choudhary, respondent no. 3, who was son of Satyadeo Choudhary, respondent no. 2 (owner of the tractor) and was driving the tractor asked Gourishankar amount its front and applied high acceleration, the tractor come out. but in the process the said labourer unfortunate fell down and run over by the tractor an lost his life. His widow, respondent no filed claim case under the Motor Vehicle Act, 1988. The vehicle was insured with the appellant-Insurance Company. By impugned judgment and award, total amount of Rs. 1,63,500/- was assessed to be paid to the claimant, besides Rs. 6000/- as costs and interest @ 15% per annum on the compensation amount from the date of claim case till payment. Mr. Ajay Kumar, counsel for appellant submitted that ignoring the ratio of the Apex Court decision in General Manager, Kerala State Road Transport Corporation, Trivandrum Vs. Mrs. Susamma Thomas and others, the tribune red in applying wrong multiplier in the present case. It was further submitted the there was no occasion for granting and amount towards costs and the rate of interest allowed is also excessive.

2. It is true that selection of multiple does not depend solely on the basis of age of the deceased, but also by the calculation as to what actual sum if invested at rate of interest appropriate to a stable economy, would yield the annual dependency by way of annual interest. He has also to consider that if the compensation amount is kept in term deposit in a Nationalised Bank or in an stable financial institution, it may fetch to the dependant: the amount of dependency available to them from annual income of the deceased.

3. In the present case, on the basis of materials on record, the tribunal assessed the annual dependency at as 15,000/-. After deducting 1/3rd therein for personal expenses of the deceased it comes to Rs. 10,000/-. So, in my opinion, in the facts and circumstances of the case, correct multiplier ought to have been 10 and thus amount of compensation comes to Rs. 1,00,000/-. Besides this claimant is also entitled to get Rs. 9500/- on account of funeral expenses, loss of consortium and loss of estate as granted by the tribunal. The claimant has already received Rs. 25,000/- as interim compensation.

4. A perusal of entire ordersheet of the claim case revealed that eight years' delay in its disposal was not caused at the instance of the Insurance Company and so grant of Rs. 6,000/- by way of costs u/s 171 of the said Act was not justified, I therefore, set it aside. Further in the facts and circumstances of the case award of interest @ 15% per annum was also excessive. It is reduced to 12%. With the aforesaid modifications in the impugned judgment and award dated 3.3.1998 this appeal is disposed of. The claimant- respondent no. 1 is entitled to withdraw the statutory amount of Rs. 25,000/-, deposited by appellant in this Court by challan no. 139 dated 20.7.1998 on proper verification and in accordance with law.