

(2008) 02 PAT CK 0116
In the Patna High Court

Oriental Insurance Company Ltd.

APPELLANT

Vs

Munni Devi and Others

RESPONDENT

Date of Decision : 12-02-2008

Acts Referred:

Citation : (2008) 2 PLJR 645

Hon'ble Judges : S.N. Hussain, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

S.N. Hussain, J.—A This Civil Revision has been filed by the petitioner-Oriental Insurance Company Ltd. challenging order dated 20.3.2005 by which the learned 4th Addl. District Judge cum Motor Accident Claim Tribunal, Nawada, while allowing M.V. case No. 45 of 2001 filed by the claimant opposite party-Ist set directed the petitioner-Insurance Company to pay compensation of Rs. 1,77,000/- to the claimant, to which any amount already paid must be deducted, along with interest @ 6% per annum from the date of filing of the Claim Case till the date of payment.

2. The claimants are widow, minor daughters and minor son of late Rohan Sao who was the driver of Trekker No. BR-21 9295 and while returning from Deoghar on 6.4.2001 met with an accident with truck No. BR-3/9622 in which he was seriously injured and died while he was being taken away to Nawadah hospital.

3. Learned court below after considering the matter in detail has found that the said Rohan Sao died in the motor vehicle accident on 6.4.2001 although he was not driving the said Trekker rashly or negligently. Learned court below found that the Trekker in question was insured for the period by the Insurance Company. So far as compensation is concerned, learned court below found that although Exhibit No. 1 was filed on behalf the claimant to show the income of the deceased but the same was not proved by the employer of the deceased and as such, no reliance can be put on the said Exhibit No. 1. Hence notional income of

Rs. 15,000/- per annum was fixed by the learned court below to be the annual income of the deceased. Learned court below has also found that the deceased was 35 years old as per the evidence and hence the appropriate multiplier was 17 as per Schedule-11 of the Motor Vehicle Act and on calculation the total came to Rs. 2,55,000/-, out of which 1/3rd was deducted towards the expenses which the deceased might have incurred in maintaining himself whereafter the amount of compensation came to Rs. 1,70,000/- to which Rs. 5,000/- was added as loss of consortium and Rs. 2,000/- was added as funeral expenses. Accordingly, the total amount of compensation payable was fixed as Rs. 1,77,000/-. It was also found that if any amount is made by the Insurance Company during the pendency of the case to the claimant, the same shall be deductible from the said amount.

4. Considering the aforesaid facts and circumstances of the case, I do not find any illegality in the order impugned of the learned court below. Accordingly, the Civil Revision application is dismissed.