

(1998) 12 PAT CK 0064
In the Patna High Court
Case No : M.A. No. 92 of 1998

Oriental Insurance Company Ltd.

APPELLANT

Vs

Shanti Devi and Others

RESPONDENT

Date of Decision : 12-12-1998

Acts Referred:

Citation : (1999) 1 PLJR 400

Hon'ble Judges : R.N. Prasad, J

Bench : Single Bench

Advocate : Ajay Kumar, for the Appellant; Arjun Pd. Ambastha and Rajeshwar Singh for Respondent 1st Set, for the Respondent

Final Decision : Allowed

Judgement

R.N. Prasad, J.—The appeal has been filed against the judgment and award dated 10.12.1997 passed by the 2nd Additional District Judge-cum-Motor Vehicle Accident Claims Tribunal, Araria in M.V.A. Case No. 3 of 1991/10 of 1996.

2. The claim case was filed for compensation by Respondent No. 1, namely, Shanti Devi widow of Kanhai Lal Bhagat for herself and for her minor children. Her husband, Kanhai Lal Bhagat met with an accident on 6.7.1990 while he and others were coming from G"ulabbagh, Purnea to Raniganj on a Swaraj Mazda Mini Truck. He sustained injury in the accident and succumbed to his injury on the same day. The dead body of Kanhai Lal Bhagat was brought to Araria Hospital and police case being Araria P.S. Case No. 158/90 was registered. The income of the deceased was stated Rs. 1,500/- per month in the claim application. The claim was contested by the insurance company. The learned Tribunal considering the evidence/material on record assessed compensation to the tune of Rs. 1,28,000/-.

3. Learned Counsel appearing for the Appellant-Insurance company contended that the learned tribunal did not consider the law laid down by the apex court in the case of General Manager, Kerala State Road Transport Corporation,

Trivandrum Vs. Mrs. Susamma Thomas and others, wherein the apex court has held that multiplier method of assessment is proper, logically sound, well established method and departure can be made from the multiplier method only in rare and extraordinary circumstances and in exceptional cases. Multiplier method should be applied in such a way that dependency calculated in money value should fetch the same amount of dependency to the claimant if the awarded amount is deposited in bank or other financial institution in fixed deposit. On the other hand, learned Counsel for the Respondents contended that the claimants-Respondent were entitled to some more compensation amount as the age of the deceased at the time of accident was about 40 years. He was maintaining sound health and there was future prospect in the business.

4. In the instant case, multiplier method has been applied. The learned Tribunal calculating the life expectancy of the deceased as 16 years more multiplied it with 16 for calculation of compensation. The income of the deceased was assessed Rs. 1,000/- per month and deducted 1/3rd from the said income and assessed the compensation at Rs. 1,28,000/-.

5. Respondent No. 1 has got four minor children out of whom one is a minor daughter and others were minor sons. Money was also required for marriage of the minor daughter and for education of minor sons. In the circumstances, monthly dependency should be fixed at Rs. 700/- and the yearly dependency comes to Rs. 8,400/- and by using multiplier of 8.50% comes to Rs. 71,400/-. If such amount is deposited in any bank in fixed deposit it would fetch round about the samel amount of dependency.

6. Learned Counsel for the Respondents pointed out that the deceased was hale and hearty and there was future prospect in the business but there was also scope of uncertainty of life and normally in using multiplier method, life uncertainty and future prospect are taken to be merged into multiplier method itself. However, considering the mental agony of Respondent No. 1, deprivation of conjugal life and also she is to bring up four minor children out of whom one is minor daughter, compensation is fixed at Rs. 1,00,000/- which would be proper compensation in the facts and circumstances of the present case.

7. The appeal is, accordingly, partly allowed and compensation is fixed at Rs. 1,00,000/-. The interest as ordered by the learned Tribunal is proper, justified and the claimant is entitled to interest at the rate of 12% per annum from the date of lodging of compensation claim till the date of payment. However, the amount already paid/withdrawn by the claimant shall be deducted from the compensation amount.