(1999) 12 PAT CK 0022

In the Patna High Court

Case No : M.A. No. 471 of 1997

Oriental Insurance Company Ltd., Patna APPELLANT

Vs

Savitri Devi and Others RESPONDENT

Date of Decision : 06-12-1999

Acts Referred:
Motor Vehicles Act, 1988 — Section 173

Citation : (2000) 4 PLJR 47

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

Bench : Single Bench

Advocate : Ashok Priyadarshi, for the Appellant;

Final Decision : Allowed

Judgement

P.K. Deb, J.—This appeal has been preferred by the above named Insurance Company against the award by the District Judgecum-Motor Vehicle Tribunal Nawadah in Motor vehicle accident claims Case No. 1 of 1992. The facts of the case are that deceased Mosafir Yadav was travelling on 12.7.1991 by Bus No. S.H.Y. 465 from Nawadah to his village Chhanaun. Near village Bahera the bus met with an accident due to rash and negligent driving by the driver. Deceased was killed in that incident. The bus at the relevant time was insured with the appellant. The compensation was claimed by the heirs of the deceased to the tune of Rs.2,40,000/-. The factum of accident due to negligence of the driving of the bus has been proved and the same has not been challenged by the Insurance Company. The only challenge is with respect to improper calculation of the compensation by the learned tribunal. The deceased was basically an agriculturist and was engaged in the contract work also. He was 48 years of age at the time of his death and his monthly income was assessed at Rs.1,000/-. A wrong approach has been taken by the learned court below in calculating the compensation is found to be correct on going through the paragraph 10 of the impugned judgment. After the amendment of the Motor Vehicles Act and the theory of multiplied method is introduced the calculation of compensation comes to a formulated one. When Rs.1,000/- has been assessed as the monthly income of the deceased then 1/3rd of the same should be deducted towards his personal expenditure and then Rs.700/-comes to be contribution towards the family and the yearly contribution comes up to Rs.8,400/-. As the deceased was 45 years of age at the time of his death then 15 would be the proper multiplier on the yearly contribution being made and the amount of compensation comes up to Rs.1,26.000/- out of which the claimants have already received Rs.25,000/- as interim compensation and taking the same amount comes up to Rs.1,01,000/- and loss of consortium is added as Rs.4,000/-and the amount comes up to Rs.1,05,000/-. this is also the principle enunciated that the award of compensation should be in such a form that if the said amount is being kept in Nationalized Bank then the interest of the same should fetch amount of income or contribution which has been lost to the family. I find that the compensation awarded by the learned tribunal is too high and did not consider the amounts in their proper perspective. Thus if the calculated amount as mentioned above as kept in the nationalized Bank would fetch something more than Rs.1,000/- per month, this would include the prospect of increase of income during the life time of the deceased and contribution towards the family. In that way the appeal is allowed to the extent as mentioned above by modifying the amount of compensation as granted by the learned tribunal. The interest as has been ordered by the learned tribunal shaft remain intact

2. It has been prayed for on behalf of the claimants that the amount which has been deposited in the appeal towards statutory obligation under-Section 173 of the M.V. Act may be disbursed in favour of the claimants who would be adjusted towards the award being granted by the appellate court.

