

IN THE HIGH COURT OF JHARKHAND AT RANCHI

(Civil Miscellaneous Appellate Jurisdiction)

M.A. No. 446 of 2019

Baby Kumari Mahato @ Baby Kumari Mahto & Ors. Appellants
Versus

Vikash Patro & Anr. Respondents

CORAM: HON'BLE MR. JUSTICE KAILASH PRASAD DEO
(Through :-Video Conferencing)

For the Appellants : Mr. Tapeswar Nath Mishra, Advocate
For the Respondent No.1 : Mr. Rakhi Sharma, Advocate
Mr. Deepak Kr. Sinha, Advocate
For the Respondent no.2 : Mr. Alok Lal, Advocate

04/Dated: 24/06/2020.

Heard, learned counsel for the parties.

Claimants are the Appellant before this Court and they have preferred this appeal for enhancement of the award on the ground that the deceased died at the age of 30 years, 6 months and the learned Tribunal has wrongly used multiplier of 16 instead of 17 contrary to the judgment of *Sarla Verma (Smt) & others vs. Delhi Transport Corporation & another*, reported in (2009) 6 SCC 121, whereby multiplier of 17 is for the age group of 26-30 years and multiplier of 16 for the age group of 31-35 years.

Learned counsel for the appellants has further submitted that the deduction made by the learned Tribunal is contrary to the judgment passed by the Hon'ble Apex Court in the case of *Sarla Verma (Supra)*. Income has been wrongly deducted on different head, except tax nothing is to be deducted in view of the judgment passed by the Hon'ble Apex Court in the case of *National Insurance Company Ltd. vs. Pranay Sethi*, reported in (2017) 16 SCC 680.

Learned counsel for the appellants has thus submitted that the learned Tribunal has considered average income of three months in para 12 of the impugned judgment to be Rs.15,329/- though Exhibit-1 shows Rs.21,332/-, as such, the learned Tribunal has wrongly computed the compensation.

Learned counsel for the respondent- Insurance Company has submitted that he has already informed the office for an adjournment of this case during lockdown period, as such, he may be given some time.

Learned counsel, Ms. Rakhi Sharma on the instruction of learned counsel Mr. Deepak Kumar Sinha appearing for respondent no.1 has submitted that there is inordinate delay of 747 days and I.A. No.10209 of 2019 filed for condonation of the same has been served upon her but since there is huge delay of 747 days in preferring the appeal, the same may not be condoned.

Under the aforesaid circumstances, let the case be listed on 22nd July, 2020.

Learned counsel for the appellants/claimants has submitted that Executing Court is not proceeding in the matter, as the Insurance Company has also preferred Misc. Appeal No. 704 of 2017 against the same impugned Award, but the same has been deliberately kept defective.

Under the aforesaid circumstances, the office is directed to verify whether the same impugned award has been challenged by the Insurance Company or whether any appeal has been preferred by the owner of the offending vehicle.

If the Misc. Appeal is preferred against the same impugned award, it is duty of the office to tag all the cases together.

Learned Joint Registrar (Judicial) is directed to look into the matter so that all analogous Misc. Appeal shall be listed together henceforth.

In the meantime, learned counsel for the Insurance Company as well as learned counsel for the owner of the offending vehicle is directed to remove the defect(s), if they have preferred appeal against the same impugned award.

Office is directed to tag all the Misc. Appeals arising out of common impugned award and list on 22.07.2020 so as to consider the question of limitation as well as question of merit and the appeal shall be disposed of on that day as the claimants are poor sufferers and accident took place on 11.07.2014.

In the meantime, the parties may exchange their pleadings.

However, it is made clear that no further adjournment shall be granted on any frivolous grounds.

(Kailash Prasad Deo, J.)