

IN THE HIGH COURT OF JHARKHAND AT RANCHI

(Civil Miscellaneous Appellate Jurisdiction)

M.A. No. 342 of 2019

.....  
National Insurance Company Ltd. .... Appellant

Versus

Asik Khan & Others. .... Respondents

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

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For the Appellant : Mr. Amresh Kumar, Advocate  
For the respondent No.1-5 : Mr. Birendra Kumar, Advocate

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**08/Dated: 09/07/2020.**

Heard, learned counsel for the parties.

Learned counsel for the respondent nos.1-5 has submitted that though the deceased has been considered to be labourer by the learned Tribunal in absence of any evidence adduced by the claimants and no cross objection has been filed by the claimants even then the claimants are entitled for future prospect of the deceased in view of the judgment passed by the Hon'ble Apex Court in the case of *Syed Sadiq v. United India Insurance Co. Ltd.*, reported in **(2014) 2 SCC 735 : (2014) 2 SCC 735 : (2014) 4 SCC (Cri) 607 : (2014) 2 SCC (Civ) 192 : 2014 SCC OnLine SC 38** para 17.

Learned counsel for the appellant has further submitted that the High Court of Delhi has considered this judgment in the case of *Bajaj Allianz General Insurance Company Ltd vs. Pooja & Others*, reported in *2017 SCC OnLine Del 11440* paras 13 and 14 of which are reproduced herein:-

*“13. The submission of the counsel for the insurer that such benefit of future prospects be granted only if there is a proven income ignores the ground realities. If this argument were to be accepted, the marginal sections of the society who are unable to muster formal proof as to the nature of avocation or their earnings will always be denied just compensation. To illustrate the point, a rickshaw puller (or a cobbler, hawker, porter or similar other daily earner) can perhaps never bring on record proof of the earnings he brings home to the family for their sustenance at the end of each working day. Such labour class do not have the resources to earn sufficiently to make the two ends meet and, more often than not, cannot even dream of saving any money for the rainy day. They generally would not have access to a bank to collect (or invest) the savings from which they would be able to arrange proof from the authorities, should the unfortunate need arise, as to the level of their earnings.*

*14. In above view, in the case at hand, the element of future prospects of increase will have to be factored in but (given the self-employed category) restricted to 40%. The loss of dependency is re-calculated accordingly as [Rs. 6,448/- × 140/100 × 2/3 × 12 × 16] Rs. 11,55,481.60, rounded off to Rs. 11,55,482/-. Since the tribunal had computed the amount under this head as Rs. 12,38,016/-, the award on this score would need to be reduced by [Rs. 12,38,016/- (-) Rs. 11,55,482/-] Rs. 82,534/-.”*

Learned counsel for the respondent nos.1-5 has further submitted that

though the claimants have not preferred any appeal but for reducing the interest rate from 9% to 7.5%, the Insurance Company has to show some bona fide and the same issue has been dealt in by the Punjab and Haryana High Court in the case of *Neelam & Others vs. Amit Kumar & Others*, reported in *Indian Law Library/1461556* at paras 21 to 23 which are reproduced herein:-

*“21. In Supe Dei and others Vs. National Insurance Company Ltd. and another, (2009) 4 SCC 513, Hon'ble Apex Court held that 9% per annum would be the appropriate rate of interest to be awarded in Motor Accidents Claims compensation cases.*

*22. In Sube Singh and another Vs. Shyam Singh (Dead) and Others, (2018) 2 RCR (Civil) 131 (SC) rate of interest of 6% per annum awarded by the Motor Accidents Claims Tribunal was modified by Hon'ble Supreme Court of India to 9% per annum.*

*23. In view of the observations in above referred judicial precedents, RBI's lending rate of interest, mercantile rate of interest prevalent, rate of interest allowed by Nationalized Banks on fixed deposit receipts, rate of interest payable on personal loan taken from Nationalized Banks and other relevant factors, it will be appropriate to modify the rate of interest of 7.5% per annum awarded by the Tribunal to 9% per annum”.*

Upon which learned counsel for the appellant, Mr. Amresh Kumar has prayed that the instant case may be listed tomorrow, so as to assist this Court properly.

Put up this case tomorrow i.e. 10.07.2020.

**( Kailash Prasad Deo, J.)**