

IN THE HIGH COURT OF JHARKHAND AT RANCHI
(Civil Miscellaneous Appellate Jurisdiction)
M.A. No. 333 of 2018

.....
M/s New India Assurance Company Limited
..... Appellant
Versus
Lalita Devi & Others
..... Respondents

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

.....
For the Appellant : Mr. Manish Kumar, Advocate.
For the Respondent :

.....
05/12.04.2021.

Heard, learned counsel for the appellant, Mr. Manish Kumar.

The New India Assurance Company Limited has preferred this appeal against the award dated 27.01.2018 passed by learned District Judge -XIV-cum-Motor Accident Claims Tribunal, Dhanbad in Motor Accident Claim Case No.70/2015.

Learned counsel for the appellant has submitted that Insurance Company has preferred this appeal on the grounds that the income of the deceased, has been considered by the learned Tribunal to be tune of Rs.8,000/- per month without any documentary evidence. The claimants have claimed the income of the deceased to be Rs.10,000/- per month by working as a mason with contractor Sadanand Rai which is excessively high on the ground that Sadanand Rai the contractor has not been examined nor any documentary proof has been brought on record.

Learned counsel for the appellant has further submitted that in the case of carpenter, who lost his life in the year 2001, in absence of documentary evidence, the Apex Court has considered his income to be Rs.5,000/- per month in the case of *Chameli Devi & Others Vs. Jivrail Mian & Others* reported in *2019 (4) TAC 724 (SC)*.

Learned counsel for the appellant has submitted that even if the judgment is followed, which is of the year 2001 and the present accident is of the year 2015, the rationale behind considering income as Rs.8,000/- in absence any documentary evidence by the learned Tribunal is not appropriate.

Learned counsel for the appellant has further submitted that even the Government notification issued regarding the wages of a

highly skilled labourer is also not coming to be tune of Rs.8,000/- per month, as such, notice may be issued to the claimants namely, (1) Lalita Devi, wife of Late Ram Lal Rai, (2) Rajesh Rai, son of Late Ram Lal Rai, (3) Suresh Rai, son of Late Ram Lal Rai, (4) Subhash Rai, son of Late Ram Lal Rai, (5) Kiran Kumari, daughter of Late Ram Lal Rai (Subhash Rai and Kiran Kumari are minors and represented by their mother and natural guardian).

Learned counsel for the appellant has further submitted that with respect to the verification of the driving licence, the evidence has been brought by the Insurance Company by examining the investigator, but since the said page of the register has been torn and as such, Insurance Company has not taken this plea against the owner.

Learned counsel for the appellant has submitted that the appeal has been filed within time, however, I.A. No.4842/2018 has been preferred under Section 5 of the Limitation Act.

Accordingly, I.A. No.4842/2018 is hereby closed as the same is infructuous.

Considering the above submissions, let notice be issued to the claimants as stated above, under both process i.e under registered cover with A/D as well as ordinary process, for which requisites etc. must be filed within a period of two weeks.

In the meantime, appellant - Insurance Company is directed to deposit Rs.8,00,000/- along with interest @ 7.5% per annum before the learned Tribunal from the date of filing of claim application within a period of 60 days from today. The same shall be disbursed to the claimants after due verification and after taking an affidavit that they have already put their appearance in M.A. No.333/2018.

(Kailash Prasad Deo, J.)

Sunil/-