

IN THE HIGH COURT OF JHARKHAND AT RANCHI
(Civil Miscellaneous Appellate Jurisdiction)
M.A. No. 122 of 2018

.....
Upendra Kumar Sharma & Anr. Appellants
Versus
Nasib Singh Mahal & Others Respondents
WITH

M.A. No. 151 of 2018

.....
United India Insurance Co. Ltd. Appellant
Versus
Upendra Kumar Sharma & Others Respondents

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

.....

For the Appellants : Mr. Rajiv Anand, Advocate
(in M.A. No.122/2018)
: Mr. Alok Lal, Advocate
(in M.A. No.151/2018).

For the Respondents : Mr. Alok Lal, Advocate
(in M.A. No.122/2018).
:Mr. Rajiv Anand, Advocate
(in M.A. No.151/2018).

.....

06/26.03.2021.

Learned counsel for the appellants-claimants in M.A. No.122/2018, Mr. Rajiv Anand has submitted that claimants have preferred this appeal for enhancement of the award dated 30.08.2017 passed in Motor Accident Claim Case No.86/2015 passed by learned Principal District Judge -cum- P.O.- Motor Accident Claim Tribunal, Bokaro, whereby the claimants have been awarded compensation to the tune of Rs. 23,94,600/- out of which Rs.50,000/- has already been paid as ad-interim compensation under Section 140 of the M.V. Act, thus Rs. 23,44,600/- along with interest @ 9% per annum from the date of application i.e. 30.07.2015 till payment to be paid within four months from the date of passing of this award, failing which the claimants will be entitled to receive penal interest @ 11% till realization of the compensation amount.

Learned counsel for the appellants-claimants has assailed the impugned award on the ground that future prospect of the deceased has not been considered in view of the judgment passed by the Apex Court in the case of *National Insurance Company Ltd. Vs. Pranay Sethi and Ors.* reported in (2017) 16 SCC 680 paragraph-59.4.

Learned counsel for the appellants-claimants has thus submitted that compensation amount may be enhanced.

Learned counsel for the appellants-claimants has further submitted that there is delay of 25 days in preferring the instant appeal and for condonation of the same, I.A. No.2223/2018 has been filed. The copy of interlocutory application has been served upon learned counsel for the Insurance Company.

Learned counsel for the Insurance Company, Mr. Alok Lal has submitted that Insurance Company has also preferred appeal against the same impugned award vide M.A. No.151/2018.

Learned counsel for the Insurance Company, Mr. Alok Lal has submitted that M.A. No.151/2018 has been filed with delay of 32 days and for condonation of the same, I.A. No.2553/2018 has been filed.

Learned counsel for the Insurance Company, Mr. Alok Lal has assailed the impugned award on the ground that excess amount under the conventional head i.e. Rs.2,25,000/- has been granted contrary to the judgment passed by Apex Court in the case of *Pranay Sethi (Supra)* para-59.8 whereby the compensation towards conventional head ought to be granted to the tune of Rs. 70,000/- i.e. Rs. 40,000/- for loss of consortium, Rs. 15,000/- for funeral expenses and Rs. 15,000/- for loss of estate. Apart from that other grounds are also available to the Insurance Company, but the matter may be placed before the Lok Adalat so as to settle the dispute between the parties after condoning the delay.

Learned counsel for the appellants-claimants has no objection.

Considering the same, delay of 25 days in preferring the appeal by the claimants and delay of 32 days in preferring the appeal by Insurance Company are hereby condoned.

Accordingly, I.A.2223/2018 in M.A. No.122/2018 and I.A. No. 2553/2018 in M.A. No.151/2018 stand allowed.

Since the parties are agree to settle their dispute before Lok Adalat, let both the appeals be placed before Lok Adalat scheduled to be held on 10.04.2021.

The Secretary, JHALSA is directed to facilitate amicable settlement between both the parties.

(Kailash Prasad Deo, J.)

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