

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Miscellaneous Appeal No.261 of 2013**

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Oriental Insurance Company Ltd., Biharsarif through Sri B. Basumatory, Regional  
Manager-cum-Duly Constituted Attorney Regional Office Oriental Insurance  
Company Ltd. Regional Office. Pir Mohani Kadam Kuan, Patna-800001

..... Appellant/s

Versus

1. Nawal Prasad son of Yadunandan Yadav
2. Kaushaliya Devi wife of Sri Nawal Prasad
3. Satyendra Narayan Singh son of Basudeo Pd. Singh, resident of C.C. 61 PS-  
P.C. Colony Kankarbagh, P.O.+ PS- P.C. Colony, District-Patna.

.... Respondent/s

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**Appearance :**

For the Appellant/s : Mr. Ashok Priyadarshi, Adv.

For the Respondent/s : M/s Umesh Lal Verma and Raj Kishore Pd. No. 1, Adv.

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**CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY**

**ORAL JUDGMENT**

**Date: 30-09-2015**


Heard learned counsel for the appellant.

There is delay of 50 days in filing of this appeal  
which has been explained in the limitation petition.

The Court is satisfied with the explanation  
accordingly, the delay is condoned.

In the present appeal, the appellant is challenging the  
judgement and award dated 28.08.2008 passed by District Judge-cum-  
Motor Vehicle Accident Claims Tribunal, Biharsharif (Nalanda) in  
Claim Case No. 147 of 2006 whereby and whereunder the Tribunal  
has awarded an amount of Rs. 2,29,500/- along with 6% interest from  
the date of filing of application.

The short facts of this case is that one Unay Kumar



aged about 10 years was coming from Milkiper to his house along with his father riding on cycle and when both reached near west side of Bahuaara, a truck bearing registration No. H.R.-38K/7829 was being driven very rashly and negligently, dashed the cycle in which Unay Kumar came under the wheel of the truck and was crushed which led to his death whereupon a criminal case, vide Akangarsarai (Telhara) P.S. Case No. 26/2006, was registered under Sections 279, 337, 338, 427 IPC and later on added Section 304(A) IPC.

The Tribunal has found that the dependant is entitled to the aforesaid amount.

The counsel for the appellant has relied upon the judgments reported in **(2013) 9 SCC 65** (Reshma Kumari v. Madan Mohan, **(2013) 15 SCC 45** (Puttamma v. K.L. Narayan Reddy and **(2014) 1 SCC 244** (Kishan Gopal v. Lala) and on that basis, he submits that the amount that has been fixed is a higher side so it should be lower side.

The aforesaid judgments relied upon by appellant has been taken into consideration in M.A. No. 311 of 2013 (Iffco Tokio General Insurance Company vs. Raj Kumari Devi), distinguished the same and followed the judgment in Kishan Gopal vs. Lala (2014) 1 SCC 244.

In view of the aforesaid judgments, this Court does

not find any merit in the present appeal, accordingly, the same is dismissed.

The statutory amount of Rs. 25,000/- be remitted back to the court below and the same should be released in favour of the claimant which will be adjusted in the final award.

**(Shivaji Pandey, J)**

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