

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.559 of 2014

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1. Divisional Manager, National Insurance Company Ltd., Sumrit Mandal Complex, Jail Road, Tilkamanjhi, Bhagalpur

.... Appellant/s

Versus

1. Chandan Kumar Akela Son of August Muni @ August Modi
2. Swity Kumari daughter of August Muni @ August Modi Both resident of village - Manoharpur, Post Office - Sahjadpur, Police Station - Madhusudanpur, District - Bhagalpur
3. Kumari Asmita wife of Gautam Modi resident of Sarkanda, Police Station - Rajmahal, District - Sahebganj
4. Rinku Kumari Wife of Subodh Modi resident of Sarkanda, Police Station - Rajmahal, District - Sahebganj

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Arun Kumar Singh, Advocate

For the Respondent/s : Mr. Viveka Nand Vivek, Advocate

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL ORDER

9 04-12-2015 Heard learned counsel for the appellant and learned counsel for the private respondent.

In the present appeal ground has been taken by the appellant that the victim is the husband of owner who was driving the motor-cycle met with an accident is not entitled to any compensation either under Section 140 of the Motor Vehicle Act or u/s 166 of the Motor Vehicle Act as it was an Act Policy not contract policy does not include the pillion driver.

Learned counsel for the private respondent submits that vehicle was registered in the name of the wife, victim husband was driving motorcycle with an accident, for

all purposes he will be a third party and as such the Tribunal has passed the order in favour of the claimant.

Having considered the rival contentions of the parties, it appears that the vehicle has been registered in the name of wife. The husband of the owner of the motor-cycle was a driver of the said vehicle. First question has been raised about nature of the policy. Whether it is an Act Police or is a comprehensive policy and court below will also examine whether he will be a third party for the purposes of granting compensation to the appellant.

As the aforesaid issue requires deep consideration by bringing the material on record by pleading supported by documentary as well as oral evidence which can only be looked into deeply at the stage of final adjudication.

In such view of the matter, the order of Rs.50,000 is kept in abeyance till disposal of final case and payment of Rs.50,000 will be subject to final decision of adjudication of Claim Case No. 172 of 2011.

With the aforesaid observation this appeal is disposed of.

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(Shivaji Pandey, J)