

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Miscellaneous Appeal No.576 of 2012
IN
Civil Writ Jurisdiction Case No. 12 of 2009**

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The Oriental Insurance Company Ltd. R.K.Palace Rai Kashinath More P.S. Civil Lines Gaya District Gaya through Sri Anil Kumar Biswal Dy. Manager Cum Duly Constituted Attorney. The Oriental Insurance Company Ltd. Regional Office Pir Mohani Kadam Kuan, Patna. (Opposite Party No.1)

.... Appellant.

Versus

1. Pramod Kumar Singh @ Pramod Singh, Son of Tileshwar Singh, Resident of Village and P.O. Kochgoan, P.S.- Warsaliganj, District Nalanda (Bihar). (Applicant).
2. Sudhir Kumar, Son of Late Daro Mahto, Resident of Village Godih, P.S.- Barbigha, District- Seikhpura (Opposite Party No. 2).

.... Respondents.

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Appearance :

For the Appellant/s : Mr. Ashok Pridarshi , Advocate.
Mr. Sanjay Sinha, Advocate.

For the Respondent No.1 : Mr. Sanjay Parasmani, Advocate.
Mr. Maruth Nath Roy, Advocate.

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CORAM: HONOURABLE MR. JUSTICE RAJENDRA KUMAR MISHRA
ORAL JUDGMENT
Date: 09-04-2015

I.A. No.2946 of 2013:

This Interlocutory Application has been filed on behalf of the appellant to condone the delay of about 70 days in filing this miscellaneous appeal.

For the reasons mentioned in this Interlocutory Application, the delay of about 70 days in filing this miscellaneous appeal is condoned and this Interlocutory Application is, accordingly, allowed.

Heard learned counsel for the appellant, Oriental Insurance Company Limited and learned counsel for the applicant/

respondent no. 1.

This miscellaneous appeal has been filed, under Section 30(1)(d) of the Workmen Compensation Act, 1923, by the appellant, Oriental Insurance Company Limited, against the order dated 28.03.2012 passed in C.W.C. Case No. 12 of 2009 by the Deputy Labour Commissioner-cum-Commissioner Workmen Compensation, Magadh Division, Gaya, whereunder the opposite party no. 1/appellant was directed to pay compensation of Rs.4,48,560/- with an interest @ 8% per annum to the respondent no.1/applicant within thirty days.

Learned counsel for the opposite party no.1/appellant, Oriental Insurance Company Limited, submits that appellant being the insurer of the bus and respondent no. 2 being the owner of the bus bearing Registration No. BR-21B-9086 appeared in C.W.C. Case No. 12 of 2009 and appellant filed written statement disputing the claim and denied its liability. As such, in view of the Notification No. 1188 L & E dated 31st December, 1991, issued under Section 20(1) and (2) of the Workmen's Compensation Act, 1923, matter ought to have been referred before the Labour Court for final disposal under Workmen Compensation Act, 1923 by the Deputy Labour Commissioner but he proceeded in the claim case illegally and passed the impugned order.

Having regards to the facts and circumstances as

stated above, it is not in dispute that appellant was contesting the claim of claimant/respondent no.1, hence the Deputy Labour Commissioner-cum-Commissioner Workmen Compensation, Magadh Division, Gaya, was required under the notification dated 1188 L & E dated 31st December, 1991, issued under Section 20(1) and 2 of the Workmen Compensation Act to refer the claim case to the Labour Court having Jurisdiction to entertain it.

Accordingly, this miscellaneous appeal is allowed and impugned order is set aside with direction to the Deputy Labour Commissioner-cum-Commissioner Workmen Compensation, Magadh Division, Gaya, to refer the dispute/case to the concerned Labour Court for prepare adjudication on all points.

(Rajendra Kumar Mishra, J)

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