

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Appeal No.515 of 2012

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1. Shailendra Kumar Singh S/O Ram Bilash Singh Resident Of Village-
Naghiyachak, P.S- Haveli, Kharagpur, District- Munger.

.... Appellant/s

Versus

1. Piyus Kumar Singh S/O Shree Subheshwari Prasad Singh Resident Of Village/
Mohalla- Naya Tola Madhopur, P.S- Kotwali, District- Munger, Owner Of Mini
Truck No. Br08 G 1192

2. Arun Kumar Singh S/O Tribhuwan Prasad Singh Resident Of Village-
Badhouna, P.S- Kharagpur, District- Munger, Driver Of The Truck No. Br08 G
1192

3. The National Insurance Co, Ltd. Having Its Divisional Office At Khalifa Bagh
Chouk, Bhagalpur, P.S And District- Bhagalpur.

4. The National Insurance Co. Ltd. Having Its Branch Office At Town Hall (Bari
Bazar), District- Munger.

5. The National Insurance Co. Ltd. Having Its Branch Office At Koderma Branch
Office, Dhanbad Main Road, Jhumari Tialiya, Kokerma, Insurers Of The Vihicle
Mini Truck No. Br08 G 1192 Vid Certificate No. 01453

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. MADHURENDRA KUMAR

For the Respondent/s : Mr. ASHOK PRIYADARSHI

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 17-07-2015

Heard the parties.

In the present appeal the appellant is challenging the order
dated 30.4.2012 passed in Accident Claim Case No.41 of 2002
by the Additional District and Sessions Judge, Special Court,
Munger-cumMotor Vehicle Accident Claim Tribunal, Munger
whereby and whereunder the tribunal has arrived to a conclusion
that the appellant did not meet with the motor vehicle accident
rather he received injuries on account of rail accident.

Brief facts of the case is that on 20.4.2001 at about 10 A.M. while the appellant was going to his house, situated at Village Maghiya Chak by his motor cycle from Sangrampur and when he reached at east side of Mohan river, near the Boring of Sridhar Singh within the Village-Jhilti, P.s. Sangrampur, District Munger a mini truck bearing registration no. BR-08-G-1192 was coming from Gangta side dashed to the motorcycle of the appellant, he fell down on the road and then the driver of the said vehicle overran the legs of the appellant and fled away. Due to the said accident the appellant received serious injuries on his both legs and other part of the body. The accident took place on account of rash and negligent driving. After the accident Sridher Singh took the appellant to his house where the appellant narrated about the accident to his father and other persons. He has also given the vehicle immediately his father admitted him in J.P. Hospital at Jamui. After short treatment, Dr. Jawahar Singh referred the appellant to Patna to Dr. R. N. Singh, Anup Memorial Orthopedic Centre and Research Institute Kankarbagh, Patna. He was admitted there on 20.4.2001. Dr. R. N. Singh in order to save his life, on 21.4.2001 amputated the left leg and also operated the right leg which was fractured. When the condition of the appellant slightly improved his father,



namely, Ram Bilash Singh filed a police case at Sangrampur registered as Sangrampur P.S. Case No. 36 of 2001. The appellant came to Sadar Hospital Munger on 20.2.2002 and approached to the Superintendent with an application to issue him 100% permanent disablement certificate and after examination Sadar Hospital, Munger issued 100% disablement certificate to the appellant on 4.3.2012.

The Investigating Officer has submitted charge-sheet against accused Arun Kumar Singh, driver of the aforesaid vehicle. The aforesaid vehicle was owned and possessed by Piyush Kumar Singh which was insured by the National Insurance Company Ltd., Dhanbad Main Road, Jhumari Tiulaiya, P.O., P.S. and District Koderma. At the time of accident the appellant was in earning Rs.8,000/- per month from transport business and agriculture.

It has been mentioned in the claim petition that Pushpa Singh, wife of the appellant, Priya Kumar (daughter), aged about 10 years, Megha Kumari (daughter), aged about 4 years and Abinash Kumar (son) are totally dependent upon earning of the appellant.

On notice, the Insurance Company has appeared and taken a plea that the appellant did not meet with motor vehicle

accident rather met with rail accident while trying to ride on the running goods train at Jamui railway station fallen down in which his leg was crushed. The news was published in the daily Hindi News Paper Hindustan.

The Tribunal has not specifically framed the issue in what manner the appellant has received the injuries but has considered thoroughly the evidence led by the parties and arrived to a conclusion that the appellant and the owner of the vehicle have entered into connivance and filed the claim application though the appellant did not receive injury in motor accident. Three things worked in the mind of Presiding Officer of the Tribunal, first was news item published in the daily Hindi News Paper "Hindustan" mentioning that appellant, Shailendra Kumar singh, of village Magyachak, Kharagpur met with an accident at the railway station Jamui while trying to ride on moving goods train. Another point worked, Sridhar Singh who after receiving the injury brought the appellant to the hospital was not examined and third point that the motor cycle met with the accident suffered no damage. Any news item published in the news item is only hearsay evidentiary value unless the news paper is corroborated by the supporting evidence, it can not be used as basis to reject the claim application.



Learned counsel for the appellant submits that during investigation the police has found in accident the motor cycle was completely damaged but counsel for the appellant could not inform about filing of claim application by the owner of the vehicle before the Insurance Company to endemnify the cost incurred in repair of the motor cycle, but he has brought to the notice that large number of prescriptions and medicines which he has consumed in course of the treatment at different hospitals including in the hospital of Dr. R.N. Singh have been filed but not exhibited which amply suggests that appellant was treated in the hospital of Dr. R.N. Singh where one of his leg was amputated on account of accident arising from motor vehicle accident. The prescription and receipts of medicine shop does not indicate the accident due to motor vehicle. The effect of non-examination of Sridhar Singh has not deeply considered in view of availability of other materials and evidence.

The court below has not specifically frame the issue but deliberated the manner he received the injuries and passed the order for rejection of the claim of the appellant. This Court feels that it requires a deep enquiry by the Tribunal about manner the appellant received the injury after giving liberty to the parties to bring all materials in connection with the manner he has

received the injury which led to amputation of his leg.

In such view of the matter, the order dated 30.4.2012 is hereby set aside and the matter is remanded back to the court below and the court below is directed to frame the issue as aforesaid and pass the order in accordance with law.

Accordingly this appeal is allowed. Office is directed to remit the lower court records forthwith.

(Shivaji Pandey, J)

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