

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Appeal No.277 of 2002

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New India Assurance Company through its Sri N. K. Singh, Regional Manager, having its office at Building 6th to 7th floor, Freser Road, Patna- 800001.

.... Appellant/Opposite Party no.3

Versus

1. Ashok Kumar Singh.
2. Manoj Kumar Singh.
3. Binoj Kumar Singh, All sons of Late Surendra Bahadur Singh.
4. Krishna Devi, wife of Late Surendra Bahadur Singh, All Resident of Village and P.S. Udwant Nagar, District Bhojpur, Ara.
- Respondents/ Award Holders.
5. Amar Nath Tiwary, S/O Laxhmi Tiwary, owner of the Bus bearing registration No. BR-1A-8791, R/O village- Koraion Mahabir Asthan, P.S.- Sasaram, District- Rohtash.
6. Binod Kumar Singh, S/O Gupteshwar Singh, owner of the Tempo bearing registration no. BR-1C-8487, R/O Village Doodhar (Tulsi Tola) P.S. Jagdishpur, District Bhojpur.

... ... Respondents/ O.P. Nos. 1 and 2.

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Appearance :

For the Appellant/s : Mr. Raj Kumar Singh Vikram, Advocate.
Dinesh Kumar Singh

For the Respondent/s : Mr. Kr.B.N.Singh, Advocate.

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CORAM: HONOURABLE MR. JUSTICE RAJENDRA KUMAR MISHRA

ORAL JUDGMENT

Date: 27-03-2015

Heard learned counsel for the appellant/ opposite party no. 3, New India Assurance Company. No one appears on behalf of the respondents.

2. This miscellaneous appeal has been filed, under Section 173 of the Motor Vehicle Act, 1988 (hereinafter referred to as the Act) by the opposite party no.3/appellant, New India Assurance Company, against the judgment/award dated 20.02.2002 passed in M.V. Case No. 12 of 1994 by the Motor Accident Claims Tribunal-

cum -2nd Additional District Judge, Bhojpur, Arrah, whereunder the opposite party no. 3/appellant, New India Assurance Company, was directed to pay compensation of Rs.4,80,000/- to the claimants/respondent nos. 1 to 4 within three months from this order at the rate of interest of 6.50% from the date of filing of the application.

3. The brief facts of the case is that on 31.01.1994 at about 4.30 A.M., the deceased, Surendra Bahadru Singh, was coming from Udwantnagar by a Tempo bearing registration no. BR-1C-8487. At that time, in the way, the Bus bearing registration no. BR-1A- 8791 collided with the Tempo, three persons got injuries including the driver of the Tempo. Surendra Bahadur Singh sustained fatal injury and died, who was the Head Master of Rampur High School.

4. Respondent no. 5/Amar Nith Tiwary, owner of the bus bearing registration no. BR-1A- 8791 and appellant/ New India Assurance Company filed their separate written statement. The respondent no. 6/Binod Kumar Singh, owner of the tempo bearing registration no. BR-1C-8487 also filed his written statement.

5. The Motor Accident Claims Tribunal-cum -2nd Additional District Judge, Bhojpur, Arrah, on considering the materials available on record directed the appellant, New India Assurance Company, insurer of the bus, to pay Rs.4,80,000/- as

compensation to the claimants/respondent nos. 1 to 4 within three months from this order at the rate of interest of 6.50% from the date of filing of the application.

6. Learned counsel for the appellant/New India Assurance Company, insurer of the bus, submits that additional written statement was filed to the effect that due to non-payment of the full amount to the New India Assurance Company by the owner of the bus bearing registration no. BR-1A-8791 on the alleged date of the occurrence, insurance of the vehicle was not valid and in spite of that the learned Tribunal through impugned judgment and award directed the appellant, New India Assurance Company, to pay compensation amount to the claimants/respondent nos. 1 to 4. Learned counsel for the appellant further submits that in compliance of order dated 15.05.2009 passed in this appeal compensation amount with interest has been paid to the claimants.

7. On perusal of the impugned judgment and award, it appears that learned Tribunal has given its finding that no any evidence has been adduced by the opposite parties in support of their pleadings and the bus was insured at the relevant time. There is no case of appellant that evidence was adduced in support of its pleadings.

8. As such, I find no any substance in the submission

of learned counsel for the appellant to interfere in the impugned judgment & award dated 20.02.2002 passed in M.V. Case No. 12 of 1994. Accordingly, this miscellaneous appeal is dismissed. Let the statutory amount deposited by the appellant be sent to Tribunal for needful.

(Rajendra Kumar Mishra, J)

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