

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Appeal No.994 of 2010

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Sushil Kumar Singh, Son of Sri Satya Narayan Singh, resident of Mohalla-Dahiyawa Tola, P.S.-Chapra Town, District-Saran (Owner of the vehicle).

.....Opposite Party No. 1/Appellant

Versus

1. Hira Devi, Wife of Sri Satya Narayan Sharma

2. Satya Narayan Sharma, Son of Late Sheo Balak Sharma

Both are resident of Village-Nipaniya, P.S.-Ishapur, District-Saran.

(Petitioner Nos. 1 & 2.....Respondents)

.....Claimants/Respondents

3. Reliance General Insurance Co. Ltd. 19, Reliance Centre, Walchand Hirachand Marg, Ballard Estate, Mumbai – 400038. (Opposite Party No. 2-Respondent).

4. Branch Manager, Reliance General Insurance Company Ltd., at Kaushalya Estate, Flat Nos. 301 and 302, Bandar Bagicha, Dak Bunglaw Road, Patna.

.....Opposite Party No. 2/Respondent

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Appearance :

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

For the Respondent Nos. 3 & 4 : Mr. Durgesh Kumar Singh, Advocate

For the Claimant/s : Mr. Ravi Prakash, Advocate

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CORAM: HONOURABLE MR. JUSTICE AKHILESH CHANDRA

ORAL JUDGMENT

Date: 23-02-2015

This file is brought under the heading “For
Hearing”.

Re. Interlocutory Application No. 8038 of 2012

In view of the averments made in the
application, the delay in filing of this appeal is hereby

condoned. Accordingly, interlocutory application stands disposed of.

Re. Miscellaneous Appeal No. 994 of 2010

1. Heard the parties.

2. This is an appeal preferred against the judgment and award, respectively, dated 29th July, 2010 and 8th August, 2010 passed in Claim Case No. 9 of 2008 by 3rd Additional District Judge-Cum-Motor Vehicle Accident Claim Tribunal, Saran at Chapra.

3. This appeal has been preferred by the owner-appellant of the offending vehicle, who has been directed to pay a sum of Rs. 3,11,200/- (Rupees Three Lakhs Eleven Thousand Two Hundred) against death of deceased, namely, Dharmendra Sharma, who died at the age of 18 years in a road accident which took place on 21st January, 2008 at about 3.30 P.M.

4. Learned counsel, Mr. Durgesh Kumar Singh, appearing on behalf of respondent nos. 3 & 4 submitted during course of argument that the vehicle in question, as confirmed by message through e-mail by the insurer, was well under coverage of insurance, though initially under Cover Note No. – 2352828.



5. Initially, Mr. Singh tried to submit that before the Claim Tribunal Below, there was no service of notice upon the insurer, but on further verification of the Lower Court Records it appears that though initially insurer was not impleaded, but vide order 3rd December, 2008 he has been impleaded as opposite party no. 2, i.e., respondent no. 3 and, subsequently, vide order dated 6th June, 2009, opposite party no. 3, i.e., respondent no. 4 was impleaded. Due notices were respectively issued in spite of the fact that notice, issued through registered post, could not return within statutory period of thirty (30) days, the Claim Tribunal Below taking extra precaution directed the claimants-respondent nos. 1 and 2 to get the notice published, consequently, there was due publication in daily newspaper, Dainik Jagran, which is attached with the record and on being satisfied with substituted service the Claim Tribunal Below proceed further.

6. Undoubtedly, the appellant was not in a position earlier to produce the insurance policy and filed cover note only, consequently, the liability was saddled upon him, but now in view of undisputed position that

the vehicle in question was well under the coverage of insurance, it is the liability of the insurer to satisfy the award. Consequently, respondent nos. 3 and 4 are directed to satisfy the same within a period of one month from today. Of course, as prayed for, if so wishes, and satisfies on the materials available to establish that there is any violation of terms and conditions of the policy by the owner-appellant and due to reasonable causes they failed to appear before the Claim Tribunal Below, may at own risk, the insurer proceed for recovery of the amount so paid to the claimants from the owner-appellant, keeping his right to contest alive.

7. Accordingly, the appeal stands disposed of.

8. Let the statutory amount, if so deposited, be remitted back to the Claim Tribunal Below for further needful.

(Akhilesh Chandra, J)

Praveen-II/-

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