

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.643 of 2013

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1. The Oriental Insurance Co. Ltd. through the Branch Manager, Ranchi Road, Biharsharif, Nalanda.

.... Appellant/s

Versus

1. Madhu Devi W/O Late Saryug Prasad @ Sarju Prasad Resident Of Village Saidanpur, P.O. And P.S. Hilsa, District Nalanda.
2. Ramesh Kumar Kajriwal S/O Sri Ram Kumar Kajriwal Owner Of The Truck No. Wb-03a-3241 At Baranasi Ghosh Street, Calcutta-700007.
3. Sweta Kumari, D/O late Saryug Prasad
4. Mucha Kumari, D/O late Saryug Prasad
5. Niku Kumari, D/O late Saryug Prasad
6. Babita Kumari, D/O Saryug Prasad
7. Dugi Kumar, son of Saryug Prasad
8. Munna Kumar, son of Saryug Prasad, respondent nos. 3 to 8 are resident of Saidanpur, PO & PS Hilsa, District Nalanda

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Bimlesh Kumar Jha

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL ORDER

3 03-09-2015 Heard learned counsel for the appellant.

In the present appeal the appellant is challenging the judgment and order dated 27.5.2013 and award dated 13.6.2013 passed by Adhoc Additional Sessions Judge No.V, Nalanda at Biharshari in Claim Case No.39 of 2005 by which the court below has directed the appellant to pay Rs. 3,97,536/- with interest of 8% from the date of filing of the claim petition.

Learned counsel for the Insurance Company has raised a grievance that though the vehicle in question was

ensured but the driver was plying the truck not having valid licence. In such view of the matter, the Insurance Company cannot be saddled with liability. It will be out and out liability of the owner and insurance Company cannot be asked to indemnify the compensation amount computed by the Tribunal.

The Hon'ble Supreme Court and this Court have repeatedly held that in such cases the Insurance Company would pay the amount but it will be recoverable from the owner of the vehicle.

In such view of the matter, this Court does not find any merit in the present appeal Accordingly the same is dismissed. However, it will be open that the Insurance Company recovered the amount from the owner of the vehicle.

Statutory amount of Rs.25,000/- deposited in this Court is remitted back to the court below and the same would be released in favour of the appellant subject to the final result of the case.

Vinay/-

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(Shivaji Pandey, J)