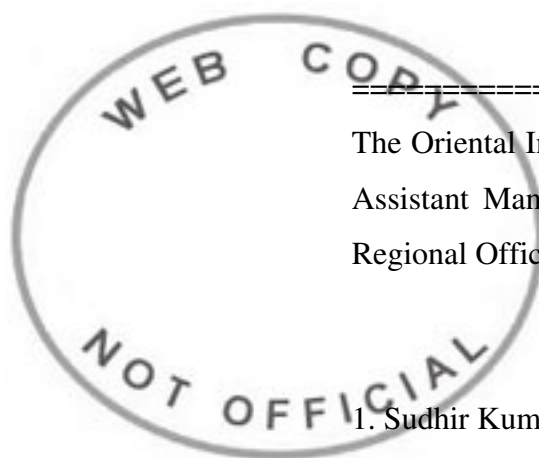




IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Appeal No.19 of 2005

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The Oriental Insurance Company Ltd., represented through Sri Lala Malay Kumar,
Assistant Manager and Constituted Attorney of the Oriental Insurance Co. Ltd.,
Regional Office at Pirmuhani, P.S.-Gandhi Maidan, District-Patna.

.....Appellant

Versus

1. Sudhir Kumar Jha, son of late Radha Mohan Jha, resident of Village-Maripur,
P.S.-Maniari, District-Muzaffarpur.

.....Claimant.....Respondent Ist Set

2. Shankar Rai, son of Satya Narain Rai, resident of Village-Kuleshara, P.S.-
Maniari, District-Muzaffarpur.

Driver of Vehicle bearing registration no. BRA No. 6852

.....Opposite Party No. 1.....Respondent IInd Set

3. Ram Sharan Rai, son of Radha Rai, resident of Village-Mohammadpur Buzurg,
P.S.-Maniyari, District-Muzaffarpur.

Owner of Vehicle bearing registration no. BRR - 6852

.....Opposite Party No. 2.....Respondent IIIrd Set

WITH

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Miscellaneous Appeal No. 16 of 2005

=====

The Oriental Insurance Company Ltd., represented through Sri Lala Malay Kumar,
Assistant Manager and Constituted Attorney of the Oriental Insurance Co. Ltd.,
Regional Office at Pirmuhani, P.S.-Gandhi Maidan, District-Patna.

.....Appellant

Versus

1. Radha Devi, wife of late Talebar Mishra, resident of Village-Silout, Jai Nanain,
P.S.-Maniyari, District-Muzaffarpur.

.....Claimant.....Respondent Ist Set

2. Ram Sharan Rai, son of Radha Rai, resident of Village-Mohammadpur Buzurg,

P.S.-Maniyari, District-Muzaffarpur.

Owner of Vehicle bearing registration no. BRF - 6852

.....Opposite Party No. 2.....Respondent IInd Set

3. Shankar Rai, son of Satya Narain Rai, resident of Village-Kuleshara, P.S.-
Maniyari, District-Muzaffarpur.

Driver of Vehicle bearing registration no. BRF - 6852

.....Opposite Party No. 1.....Respondent IIIrd Set

=====

Appearance :

(In MA No. 19 of 2005)

For the Appellant : Mr. Ashok Priyadarshi, Advocate

For the Respondent No. 2 : Mr. Kameshwar Kumar, Advocate

(In MA No. 16 of 2005)

For the Appellant : Mr. Ashok Priyadarshi, Advocate

For the Respondent No. 3 : Mr. Kameshwar Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE AKHILESH CHANDRA
ORAL JUDGMENT

Date: 03-02-2015

These two appeals are brought under the heading
“For Orders (On Office Notes)”.

2. Heard learned counsel representing the appellants
as well as learned counsel representing the owner
(respondent no. 3 in Misc. Appeal No. 19 of 2005 and
respondent no. 2 in Misc. Appeal No. 16 of 2005) in
both the appeals.

3. Both these appeals have been taken up together



and are being disposed of by this composite judgment since common question of law is involved in these appeals, wherein, earlier the findings have already been given in Misc. Appeal No. 18 of 2005 arising out of judgment and award, respectively, dated 9th September, 2004 and 22nd September, 2004 passed in Claim Case No. 154 of 1998 by learned 1st Additional District Judge-Cum-Motor Vehicle Accident Claim Tribunal, Muzaffapur.

4. It is further pertinent to mention that before the Claim Tribunal Below there were altogether four claim applications, bearing nos. - (i) 152 of 1998, (ii) 153 of 1998, (iii) 154 of 1998 and (iv) 155 of 1998, preferred by different claimants arising out of same accident involving same vehicle owned by, respectively, respondent no. 3 and respondent no. 2 here and driven by, respectively, respondent no. 2 and respondent no. 3 here and four claim cases were taken together and disposed of by analogous judgment directing the appellants (Insurance) here to compensate, giving rise to four appeals, respectively, Misc. Appeal Nos. 16, 17, 18

and 19 all of year 2005.

5. It further appears that Misc. Appeal No. 17 of 2005 was dismissed in default and the present two appeals, somehow or the other, could not be taken alongwith Misc. Appeal No. 18 of 2005 which has been heard and decided by a Bench of this Court on 27th July, 2012, wherein, the liability of the appellants (Insurance) was quashed with specific clarification **“however, it is made clear that the right of the respondents or the legal heirs to seek the said compensation from the owner or the driver of the vehicle does not extinguish itself”** and, accordingly, the said appeal was allowed in terms of the above and the impugned judgment and award was modified to the extent indicated above (therein).

6. In view of the decision of this Court stated above modifying the analogous judgment in the terms indicated above (therein), there appears no reason to keep these two appeals pending anymore since undisputedly the above order of a Bench of this Court is final and there is no appeal against. Accordingly,

finding substance in the submission of the bar, these two appeals are also hereby disposed of with the modification in the award as indicated above and specified in the order of this Court in Misc. Appeal No. 18 of 2005.

7. As prayed for, the statutory amount, if so deposited, be remitted to the Claim Tribunal Below for needful.

(Akhilesh Chandra, J)

Praveen-II/-

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