

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.96 of 2009

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The Oriental Insurance Company Ltd. through Sri B.M. Mallick, son of Sri Basant Mallik, posted as R.M. at Regional Office, Pirmohani, Patna-3.

O.P.No.2.... Appellant/s

Versus

1. Mumund Bihari Pandey @ Mukund Kumar Pandey, son of Ram Bachan Pandey
2. Smt. Madhuri Devi alias Sushma Devi, wife of Mumund Bihari Pandey alias Mukund Kumar Pandey (1 & 2 are resident of Village Mauni, P.O. & P.S. Sheosagar, District Rohtas ----- (1 and 2 are Claimants)
3. Ravi Prakash Dubey, son of Ram Lagan Dubey, resident of Village Authgaon, Gauhati-I, State-Assam (Owner of Truck No. AS-25/6588 --- (O.P.No.1)

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. V.C.Srivastava

For the Respondent/s : Mr. Awanish Kumar Pandey

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL ORDER

11 20-05-2015 Learned counsel for the appellant submits that at the stage of Tribunal specific plea was taken by the Insurance Company that the offending vehicle was being plied by a driver having no valid licence. In such view of the matter, the Insurance Company cannot be saddled with the liability to reimburse the compensation amount which is to be paid by the motor vehicle owner and he has drawn the attention of paragraph nos. 15 and 16 of the memo of appeal.

It appears that by order dated 1.7.2013 notice was issued to respondent no.3 but no one had appeared on his behalf. Even the driver who was plying the vehicle having no

valid licence, the person who was affected by accident cannot be deprived of the amount awarded by the Tribunal. In such cases the Insurance Company is required to pay the same but he has liberty to recover the amount from the owner of the vehicle.

This Court does not find any error in the award of the Tribunal. However, the Tribunal will be at liberty to recover the amount from the owner of the vehicle which has been awarded by the Tribunal, if it is found that the driver of the offending vehicle was not holding valid licence.

Let the amount of Rs.25,000/- statutory amount deposited in this Court be immediately sent to the Tribunal for payment to the appellant and rest amount would be paid to him within six weeks from today.

With the aforesaid observation this appeal is disposed of.

(Shivaji Pandey, J)

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