

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Appeal No.658 of 2011

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Mahendra Lal Gupta, Son of Lt. Dular Chand Sao, Resident of Village-Bandhu Bazar, P.O./P.S.-Sohsarai, District-Nalanda.

.....Claimant/Appellant

Versus

1. Upendra Giri, Son of Mishri Giri, Resident of Khas Mahal Central School, P.O.-Sunday Bazar, P.S.-Gandhi Nagar, Bermo, District-Bokaro.

.....O.P. No. 1/Respondent

2. Reliance General Insurance Co. Ltd. through its Branch Manager, Kaushlaya Estate, Dak Banglow Road, Patna, District-Patna (Insurer of BR.06G.3513).

.....O.P. No. 2/Respondent

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Appearance :

For the Appellant : Mr. Rajesh Kumar, Advocate

For the Respondent/s : None

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CORAM: HONOURABLE MR. JUSTICE AKHILESH CHANDRA
ORAL ORDER

8 12-01-2015 Heard learned counsel appearing on behalf of the appellant.

2. This is an appeal preferred against Judgment dated 31st May, 2011 and Award dated 4th August, 2011 passed by 8th Additional District & Sessions Judge-Cum-Claim Tribunal, Patna in Claim Case No. 303 of 2009, awarding a sum of Rs. 3,07,250/- (Rupees Three Lacs

Seven Thousand Two Hundred Fifty) with an interest @ 6% per annum as half of the compensation against death of one Bijet Kumar which took place on 17th May, 2009 at about 2.00 P.M. while he was going on a bike and dashed with a truck, bearing Registration No.- CG-04JB-0364.

3. The deceased, namely, Bijet Kumar, was son of the claimant, who is a widower.

4. Undisputedly, before the Claim Tribunal Below, neither the number of the bike being driven by the deceased was disclosed nor there was any detail with respect to the ownership of the same. Even the claimant is silent about the competency of the deceased to drive the bike (there is nothing to show as to whether he had any valid licence or not). Apart from others, Issue No. 5 as settled by the Claim Tribunal Below for determination is as to whether the deceased was responsible for contributory negligence at the time of accident and though altogether eight (8) issues have been framed, but at the initial stage of the findings, the Claim Tribunal Below in writing proceeded with Issue No. 1 alone, but decided everything and finding that the owner of the bike also responsible to pay the compensation to the extent of 50% and simply awarded the amount aforesaid to

be paid by the Insurer (respondent no. 2) of the truck said to have also been involved in the accident.

5. During course of submissions here, learned counsel for the appellant-claimant submits that the bike, in question, was owned by the claimant himself, but failed to state any reason behind non-disclosure of such fact including number etc. of the bike and competency to driven the same by the deceased. This goes to show that the appellant-claimant right from the beginning failed to proceed with the clean hands and intentionally concealed the important facts and materials from the Claim Tribunal Below. This alone disentitles the claimant-appellant for any benefit, whatsoever, in spite of having all sympathy for death of his son and also non-disclosure of the fact as to whether the deceased was unmarried widower or left behind any more heirs than the claimant himself.

6. Accordingly, the appeal is hereby dismissed at this stage itself.

(Akhilesh Chandra, J)

Praveen-II/-

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