

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.430 of 2011

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Divisional Manager, United India Insurance Company

.... Appellant/s

Versus

Madhuri Devi & Ors

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Ramchandra Lal Das

For the Respondent/s : Mr. Sanjay Parasmani, Adv.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL ORDER

11 07-08-2015

Heard counsel for the appellant and the respondent s.

The Insurance Company has raised the grievance that the driver who was driving the vehicle was not holding proper driving licence and, as such, the Insurance Company cannot be asked to indemnify the liability of the owner.

Short facts of the case is that Awadhesh Sharma on 23/24.4.2008 at about 12.15 in the night along with his son Shashikant had gone for marriage and after solemnization of the marriage he returned to his house along with deceased Sudhanshu Sharma, Ranjeet Sharma and Vijay Sharma. Thereafter all of them returned back to their home by motor-cycle bearing Regd. No.DGH 1876 and at about 11:00 A.M. informant came to know that Tuntun Sharma, Ranjeet Sharma and Vijay Shazrma met with an accident at Rajaundh More, Belaganj and when he reached at the Rajaundh more, he found that Belaganj Police were



present there and a truck bearing Regd. No JH-11A 8027 was standing by the side of the road and the motor-cycle was found lying in damaged condition. On enquiry, villagers informed him that due to rash and negligent driving of the truck, motor-cycle met with an accident Sangram Singh @ Tuntun Sharma, Ranjeet Sharma and Vijay Sharma received serious injuries, Police carried them to Magadh Medical College Hospital, Gaya for their treatment but Tuntun Sharma and Ranjeet Sharma died on way and Vijay Sharma was under treatment.

Claim application has been filed on account of death of Sudhanshu Sharma @ Tuntun Sharma. The court below examined the materials on record and arrived to a finding that the claimant is entitled to an award of Rs.3,86,500/- with 6 per cent interest to be paid within two months from the date of award.

Counsel for the respondents raised limited grievance that the driver who was driving the truck was not having valid licence and, as such, in terms of Section 149(2) of the M.V.Act, the Insurance Company cannot be compelled to indemnify the liability of the owner in turn cannot be compelled to pay the compensation amount.

In view of the decisions of this Court as well as the Hon'ble Supreme Court, in such cases, compensation amount will

be paid by the Insurance Company but the Insurance Company will be at liberty to recover the compensation amount from the owner. In such view of the matter, this Court does not find any ground to interfere with the award. This appeal is accordingly, dismissed.

However, the Insurance Company will be at liberty to recover the compensation amount from the owner/truck driver concerned.

(Shivaji Pandey, J)

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