

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Appeal No.235 of 2013

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1. Kesho Begam wife of Late Mohan Roy
 2. Md. Irfan Alam son of Late Mohan Roy
 3. Ibrar @ Ibran, minor son under the guardianship of their mother, well wisher and next friend.
 4. Junaid Alam minor son under the guardianship of their mother, well wisher and next friend.

All are resident of village and PO-Radhiya Anchal Areraj, PS-Govindganj, District-East Champaran.

.... Appellant/s

Versus

1. Rizwan Khan , Son of Y.Khan, Resident of Village (Permanent Address) Govt. Hide Road Jain Kunj, Kolkata-38. Present Address, 17/A , Maulavi Mohamad Ali Road, Khidinpur, P.S. Egbalpur, Kolkatta.700 023. (Owner of Tractor No. NL 01D/1222).
2. Md. Shamim Khan, Father of Late Asshique Khan, Resident of Village-Usiya, P.S. Dildar Nagar, District- Gazipur(U.P) (Driver of a Tractor NO. NL-01D/1222).
3. The New India Assurance Company Limited through Branch Manager, L.I.G. Building Ranchi Road, P.O Bihar Sharif-803101(Nalanda).
4. Suresh Prasad, Son of Ramchandra Prasad, Resident of Village- H. No.70, Nagar Road Roxol P.O, District East Champaran, Bihar-845401. (Owner of Truck No. HR-38H-9451).
5. The National Insurance Company Limited, through Gandhi Maidan, Bihar Sharif, Nalanda(Insurer of Truck No. HR 38H-9451).

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Satya Ranjan Sinha, Adv.

For the Respondent/s : M/s Krishna Murari Prasad and Ashok Pridershi, Advs.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 08-12-2015

Heard learned counsel for the appellants and the counsel
for the respondents.

The present appeal has been filed against the decree
dated 07/01/2013 passed by Adhoc Additional Sessions Judge-V,
Nalanda at Bihar Sharif in Claim Case No. 78 of 2008.

As per the case of the appellants, the deceased was the

driver of Truck No. HR-38H-9451 which met with an accident in Truck No. NL-01D/1222 in which accident, driver of Truck No. HR-38H-9451 died and the deceased was identified as Mohan Rai.

Claim case was filed by the present appellants and petitioner no. 1 is claiming to be wife of deceased Mohan Rai.

As it appears, petitioners are the resident of East Champaran, instead of filing the claim case within the jurisdiction of East Champaran, they preferred to file the same before the Claims Tribunal, Bihar Sharif (Nalanda).

Altogether 14 documents were filed only one document, namely, Genealogy Certificate (Ext.-4), has been filed showing the relationship in between the claimants and deceased.

The court below has dealt with the matter and has recorded a finding of failure to prove the relationship of the present appellant no. 1 to be wife of deceased Mohan Rai. The court has recorded that the documents that have been filed, are not sufficient to prove the relationship of the appellant with deceased Mohan Rai.

Prima facie and apparently it appears that the appellant no. 1 cannot be wife of deceased Mohan Rai and save and except, Genealogy Certificate(Ext.4), she did not file any material showing connection herself to be wife of deceased Mohan Rai which also creates a doubt, they are the resident of East Champaran, why they

preferred to file the claim case before the Claims Tribunal, Bihar Sharif (Nalanda) and so much so that the claim case has been filed after delay of three years without having any valid explanation.

In such view of the matter, this Court does not find any error in the order under appeal. Accordingly, this appeal is dismissed.

(Shivaji Pandey, J)

Mahesh/-

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