

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Appeal No.656 of 2009

Divisional Manager, Oriental Insurance Company Ltd.

.... Appellant/s

Versus

Bhusan Ram & Ors.

.... Respondent/s

Appearance :

For the Appellant/s : Mr. ASHOK PRIYADARSHI

For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 27-07-2015

Heard the parties.

Counsel for the respondent no.7 has filed an affidavit stating therein that there is none in the name of Sukhdeo Singh in his family.

In the present appeal, primary question has been raised that the Insurance Company is not liable to indemnify Sukhdeo Singh, respondent no.7 son of Son of Late Sah Baran Singh, resident of village Narainpur P.S. Sandesh District Bhojpur as the insurance policy has been issued in favour of Dharmendra Singh son of Sri Mukhdeo Singh, LIG-24 Singarauli Sidhi (M.P.), whereas Sukhdeo Singh, respondent no.7 is resident of district Bhojpur in the State of Bihar, the award has wrongly been prepared against him. This case was adjourned at the instance of claimant on many dates. The claimant assured this Court that he will verify facts and address, would and make concrete statement about status of respondent no.7. Even to-day he is not in a position to explain whether respondent no.7 is owner of vehicle in question and the Insurance Company has issued insurance policy in favour of respondent as in the insurance policy name and address of insured is different, is liable to pay the amount of compensation and that will be indemnified by the Insurance Company.

In view of positive statement made by respondent no.7, the amount that has been awarded cannot be the liability of respondent no.7. It can only be recovered and indemnified from Narendra Singh son of Mukhdeo Singh, LIG-24 Singrauli Sidhi (M.P.). This Court is of the view that the award prepared by the court below is in the name of wrong person. Notice should be given to the correct person as per the address given in the policy issued by the Insurance Company and decide the matter in accordance with law. As the notice has to go to the correct person, the court below is directed to hold de novo trial after giving due notice to the parties. The amount lying with this Court be remitted to the court below for making payment to the right person.

Accordingly, the award is quashed and the matter is remanded back for a fresh trial. It is indicated that this Court is not giving any opinion on the merit of the case. This petition is, accordingly, disposed of.

Jay/-

(Shivaji Pandey, J)

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