

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Appeal No.768 of 2010

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National Insurance Company Limited, Gaya, District – Gaya represented through its Chief Regional Manager & the constituted attorney, R.O. National Insurance Co. Ltd. 4th Floor, Sone Bhawan, B.C. Patel Marg, P.S. – Sachivalaya, District – Patna.

.... Appellant

Versus

1. Most. Leela Kuer, W/o – Late Baidnath Mehta
2. Sonu Kumar
3. Sandip Kumar, both sons of late Baidnath Mehta
4. Priyanka Kumari
5. Neha Kumar, both daughter of Late Baidnath Mehta
6. Most. Munaka Devi, mother of late Baidnath Mehta

All the above respondents of village – Kharkawan Mahmood,
Ward No. 2, P.O. & P.S. + Anchal – Rafiganj, District –
Aurangabad.

----- Applicants.

----- Respondent 1st Set.

7. Kamendra Kumar Singh, son of Sri Lalan Prasad Singh, resident of village- Gogari, P.O. – Mahuwan, P.S. – Madanpur, District – Aurangabad

----- (Owner of the vehicle). ----- Opposite Party No. 1

8. Bigan Singh, son of Ram Prasad Singh, village + P.S. – Madanpur, District – Aurangabad, Bihar (Driver of Bus No. BR-2B-1112).

----- Opposite Party No. 2

----- Respondent 2nd Set

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Appearance :

For the Appellant/s : Mr. Raj Kumar Singh Vikram
For the Respondent/s : Mr. Anil Kumar, Advocate
Mr. Ashok Kumar Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE AKHILESH CHANDRA
ORAL JUDGMENT

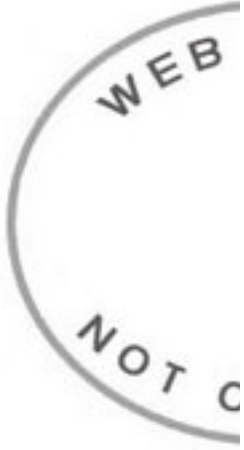
Date: 15-01-2015

Heard learned counsel for the parties.

2. This is an appeal preferred by insurer appellant challenging the judgment and Award dated 06.07.2010 and 19.11.2010 passed by learned Additional District Judge, F.T.C. - III, cum Additional Motor Vehicle Accident Claim Tribunal, Aurangabad, in connection with M.V. Accident Claim Case No. 17/ 2000 / 11/2010.

3. Since this appeal has been preferred only on the ground that in spite of the fact that driver of the offending vehicle had no valid license rather fake license was produced, the Claim Tribunal ignoring the materials directed the appellant to pay the compensation against death of Bidyanath Mehta which was taking place on 05.04.2000, even without affording right of recovery. Since there is no dispute on any other point and it is not relevant to go into other details.

4. It is submitted by learned counsel for the appellant that driving license of the driver Bigan Singh is said to have issued from D.T.O. Hazaribagh, but Exhibit – I is the report issued from such office clearly denying issuance of the driving license. Besides the above, Exhibit – H is the report of the investigator also stating all such things relying upon Exhibit – I. But, the record



indicates that appellant insurer has not produced investigator Binay Kumar Singh nor any authentic person who proved Exhibit – I, rather, everything appears done in a very formal manner.

5. In absence of specific materials placed properly on the record, there appears no merit in this appeal. Accordingly, it is hereby dismissed.

6. Learned counsel for the appellant is directed to satisfy the Award with interest as directed within a month. However, as prayed for, at its own risk, if the insurer finds it satisfied on the basis of materials available with it to initiate proceeding for recovery of the amount so paid to the claimant from owner of the offending vehicle, may initiate such proceedings wherein the owner respondent no. 7 shall have every right to contest. The statutory deposit be remitted at once to the Claim Tribunal below for needful.

Rajeev/-

(Akhilesh Chandra, J.)

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