

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.429 of 2011

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Divisional Manager, United India Insurance Company

.... Appellant/s

Versus

Kaushaliya Devi & Ors

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Ramchandra Lal Das, Adv.

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL ORDER

13 28-08-2015

The appeal was disposed of vide order dated 25th August 2015, but due to some technical fault of computer some mistakes have occurred.

In such view of the matter the order dated 25th August 2015 will be deemed to have been scrapped and in place thereof, the correct order will be as follows:

“Heard counsel for the appellant and the respondents.

In the present case the appellant is challenging the judgment and award dated 14th January 2011 and 1st October 2012 respectively whereby and whereunder the Tribunal has calculated the award amounting to the tune of Rs.3,62,500/- with 6 per cent interest per annum to be paid within two months from the date of the order, which is under challenge before this Court.

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.54DGH 1876 and at about 11:00 A.M. informant came to know that Tuntun Sharma, Ranjeet Sharma and Vijay Sharma 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 Ranjeet Kumar. The court below examined the materials on record and arrived to a finding that the claimant is entitled to an award of Rs.3,62,500/- 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".

Accordingly, the order dated 25th August 2015 is modified.

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(Shivaji Pandey, J)