

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.884 of 2010

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Divisional Manager Oriental Insurance Co., Muzafferpur (opposite party no.2)
through Sri Anil Kumar Biswal Deputy Manager cum Duly constituted Attorney
Duly constituted Attorney the Oriental Insurance Company Ltd. Regional Officer
Pir Mohani Kadam Kuan, Patna.

.... Appellant/s

Versus

1. Superintendent Bihar State Road Transport Coporation Muzafferpur P.O. P.S.
Muzaffarpur, District – Muzafferpur
 2. Chanda Devi, W/o Rishideo Sahani (Claimant No.1)
 3. Rishideo Sahani, S/o late Budha Deo Sahani – (Claimant No.2)
- Both R/o Vill. Mohammadpur Balmi P.S. Motipur, District – Muzafferpur.

.... Respondents

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Appearance :

For the Appellant/s	:	Mr. Ashok Priyadarshi
For the B.S.R.T.C./Respondent/s	:	Mr. P.K. Verma
		Mr. Nand Kumar Singh
For the Claimant	:	Mr. Rakesh Ranjan.

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CORAM: HONOURABLE MR. JUSTICE RAJENDRA KUMAR MISHRA
ORAL JUDGMENT

Date: 20-04-2015

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

This miscellaneous appeal in terms of section 173 of
the Motor Vehicles Act, 1988 is preferred against the Judgment and
Award dated 16.06.2010 and 29.06.2010 respectively in connection
with Claim Case No. 254 of 2005, whereby the Additional District
Judge, Fast Track-3, the Motor Vehicles Claims Tribunal,
Muzaffarpur (hereinafter called as ‘Tribunal’) allowed the claim case
of the claimants/respondent nos.2 and 3 directing the opposite party
no.2/appellant to pay the compensation of Rs. 83,334/- with interest

@ 6% within 60 days through account payee Cheque to the claimants.

Learned counsel for the opposite party no.2 appellant submits that admittedly, the Bus bearing BR 06P-0373 was owned by the Bihar State Road Transport Corporation, Opposite party-respondent no.1 and at the time of accident, the bus was being driven by the driver Subhash Rai. Before the Tribunal, Arvind Kumar Mishra, investigator was examined on behalf of the Opposite Party no.2-appellant United India Insurance Corporation as D.W. 1, who proved the certificate issued by the District Transport Officer, Muzaffarpur to the effect that Driver Subhash Rai had driving license only to drive the light Motor Vehicle and the same is marked as Ext. A, but the learned Tribunal did not frame the issue on that point and discussed the evidence in this regard without any finding.

Learned counsel appearing on behalf of the opposite party-respondent no.1 Bihar State Road Transport Corporation submits that it is not true that Subhash Rai has only driving license to drive the light motor vehicle rather he had driving license of heavy motor vehicle also and photocopy of driving license with the list of documents was filed before the Tribunal.

On perusal of the impugned judgment and award, it appears that issue was not framed regarding the validity of the driving

license of driver of Bus in question. While the learned Tribunal has discussed the evidence of DW.1 Arbind Kumar Mishra investigator who proved certificate issued by the District Transport Officer regarding the driving license of the driver for light vehicle as Ext.A but no finding has been recorded about the validity of the driving license.

To appreciate the rival submission of learned counsel for the appellant-respondent no.1 and opposite part-respondent no.1, Rule 236 of Bihar Motor Vehicles Rule, 1992, Rule 16 and 19(1) of the Bihar Motor Vehicles Accident Claims Tribunal Rules, 1961 are quoted as under :-

“Bihar Motor Vehicles Rules 1992

Rule 236. Framing of issue – After considering any written statement and the result of any examination of the parties, the Claims Tribunal shall ascertain upon what material prepositions of fact or of law the parties are at variance and shall proceed to frame and record the issue upon which the right decision of the case appears to it to depend.

**Bihar Motor Vehicles Accident Claims
Tribunal Rules, 1961.**



16 Framing of issues – After considering any written statement, the evidence of witnesses examined and the result of any local inspection, the Claims Tribunal shall proceed to frame and record the issues upon which the right decision of the case appears to it to depend.

“Rule 19(i) Claim Tribunal is passing orders, shall record concisely in a judgment the finding on such issues framed and reasons for such findings and make an award specifying the amount of compensation to be paid by the insurer and also the person or persons to whom compensation shall be paid”.

On perusal of the Rule 236 of the Bihar Motor Vehicles Rules, Rule 16 and 19(i) of the Bihar Motor Vehicles Accident Claims Tribunal Rules, 1961, it is apparent that the Tribunal is required to frame the issue on considering the written statement and the evident of the witnesses upon which the right decision of the case appears to it to depend and in passing orders shall record concisely in a judgment the findings on each of the issues framed and the reasons for such findings and make an award specifying the amount of compensation to be paid by the insurer and also the person or persons

to whom compensation shall be paid.

The evidence has been adduced by the opposite party no.2/appellant regarding validity of the driving license of the driver of the bus in question, but neither the issue has been framed nor finding has been recorded by the Tribunal, while evidence has been discussed in that regard.

Under the facts and circumstances of the case, as stated above, the impugned judgment and award is not fit to be sustained. Accordingly, impugned judgment and award is set aside and the miscellaneous appeal is allowed. The case is remanded to the learned Tribunal for framing relevant issues in the light of the pleadings and evidence of parties by giving an opportunity to the Bihar Road Transport Corporation, opposite party-respondent no.1 to adduce evidence, if any, in support of its case and disposed of claim case within six months on receipt/production of copy of this order.

The statutory amount deposited at the time of filing the appeal be sent to the Tribunal, which will be kept in abeyance till disposal of the claim case.

Let the copy of this order along with lower Court records be sent to the Tribunal forthwith.

(Rajendra Kumar Mishra, J.)

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