IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Appeal No.644 of 2010

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1. Oriental Insurance Company Ltd. Through The Regionalmanager (Legal Department),Regional Office Pirmohani,Kadamkuan,Patna(For The Branch Manager,Oriental Insurance Company Ltd. Rajwati Post Office Road,Munger.P.S.& Dist.- Munger.

.... Appellant/s

Versus

1. Nabisha Khatoon W/O R/O Vill.- Satgama,P.O.&P.S.- Jamui,Dist.-Jamui.
2. Md.Nabi R/O Vill.- Satgama,P.O.&P.S.- Jamui,Dist.-Jamui.
3. Md.Kousar S/O Late Habib R/O Vill.- Satgama,P.O.&P.S.- Jamui,Dist.-Jamui.
4. Rajeev Kumar S/O Ram Niranjan Pd.Singh R/O Vill. + P.O.- Hasanpur,P.S.+ Dist.- Lakhisarai.
5. Kanhaiya Modi S/O Suresh Modi R/O Vill.- Halsi,P.O.- & P.S.- Halsi,Dist.- Lakhisrai(Driver Of The Vehicle.)

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. MUKTESHWAR PRASAD SINGH, Adv.

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 06-05-2015

Heard counsel for the petitioner and the respondents.

The court below has directed the Insurance Company to pay Rs.50,000/- interim amount under Section 140 of the Motor Vehicle Act (hereinafter referred to as the ‘Act’).

The owner had ensured vehicle on 5th March 2009. As claimed by the owner, he had deposited the amount in the 1st half of 5th March 2009. On the same day, the accident took place at 3:30 hours. The Insurance Company submitted that his policy for 365 days commenced from 7th March 2009 from mid-night and, as such, the owner is not entitled to be compensated for the amount that has been passed u/s 140 of the Act.

In course of argument he has submitted that though the appellant treated the policy started operating from 5th March 2009, time of deposit of premium has not been stated by the counsel for the owner of the vehicle, as such, even presuming that the policy started on 5th March 2008 but if the deposit of money is after time of accident, the Insurance Company cannot be held liable.

On the other hand, counsel for the owner of the vehicle submitted that he had taken insurance through the agent of the appellant Company and he had deposited the amount on 5th March 2009 in the first half in Office of appellant and, as such, the Motor Vehicle Tribunal has rightly directed the Insurance Company to pay the amount. However, he also gives undertaking that if the decision goes against him, he will return the amount of Rs.50,000/- to the Insurance Company. In such view of the matter, only dispute is of time when the money was deposited in the Office of the appellant.

These issues will only be decided after taking evidence from both sides. In course of argument, counsel for the appellant has submitted that the Insurance Company transacts money upto 3 O' clock on each working day. Admittedly, the agent had deposited the money on 5th March 2009 certainly before the closing time. In that view of the matter also, this Court is not interfering with the order as the disputed question of fact with regard to the date of deposit of the premium amount will be decided at the time of final adjudication.

In view of the undertaking given by the owner of the vehicle, this Court directs the appellant to pay Rs.50,000/- as per direction of the Motor Vehicle Tribunal and if the owner loses the case, he will return the amount to the Insurance Company.

Office is directed to return Rs.25,000/- already deposited in terms of statutory provision to the Motor Vehicle Tribunal for needful.

With the above observation/direction, this petition is disposed of.

(Shivaji Pandey, J)

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