

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Appeal No.703 of 2011

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Ram Prit Mistry son of Aganu Mistry, resident of Magadh University, Bodh Gaya,
District-Patna.

.... Appellant/s

Versus

1. Renu Kuer wife of late Birendra Kumar Singh
2. Amrit Kumar son of late Birendra Kumar Singh
3. Ankush Kumar minor son of late Birendra Kumar Singh
4. Amrits Kumari minor daughter of late Birendra Kumar Singh
5. Priyanka Kumari minor daughter of late Birendra Kumar Singh
Under the guardianship of their mother Renu Kuer
6. Mostt. Jagti Kuar wife of Late Ram Janam Singh
All resident of village and Post-Dardha, PS-Goh, District-Aurangabad (Bihar).
7. Mitihlesh Ram son of Kamal Ram, resident of village-Kurmain, PO-Dhardha,
PS-Goh, District-Aurangabad (Bihar).

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Akhauri Kamal Sah, Adv.

For the Respondent/s :

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 08-07-2015

Heard learned counsel for the appellant.

In this case, the appellant is challenging the order dated 19th July 2011 by which the court below has directed to make payment of interim compensation as provided under Section 140 of the Motor Vehicle Act for the death of Birendra Kumar Singh.

As per the claim application, late Birendra Kumar Singh was coming to his village from his field after sowing paddy crops and when he came to Daudnagar Gaya road near village-Dardha in front of the house of Arun Singh, a motorcyclist, namely, Mithilesh Ram dashed late Birendra Kumar Singh who received serious injury on his head as well as on other parts of his body, driver of the vehicle fled

away leaving behind the vehicle. Late Birendra Kumar Singh was brought to Primary Health Centre, Goh and was referred to Gaya Medical College, from where reference was made to P.M.C.H., Patna and he was admitted to Gokul Nursing Home, Kumhrar, in course of treatment, he died on 24th July 2010. After his death, Goh P.S. Case No.91/2000 was instituted for offences under sections 279, 337, and 304(A) of the Indian Penal Code.

Post mortem of late Birendra Kumar Singh was done in P.M.C.H., Patna.

As the motorcycle bearing registration No. BR-2A/1036 was not insured, an application has been filed against the owner of the vehicle for interim compensation of Rs. 50,000/-.

The owner of the vehicle appeared and filed written statement stating that on the day of accident, the appellant was not the owner of the vehicle as he was sold the vehicle to one Mukesh Kumar son of Bali Ram Prasad, resident of Kharaina, PS-Magadh University Bodh Gaya, District-Gaya on 26th November 2002 and executed the sale letter and also sworn affidavit on which Mukesh Kumar also signed and claim has been made that instead of the petitioner, Mukesh Kumar is liable to pay the aforesaid compensation.

The question was framed by the court below whether Mukesh Kumar will be liable to pay the interim compensation amount or the petitioner.

It appears that after the sale of the vehicle, there is no entry in the owner book with regard to transfer of the motor cycle to Mukesh Kumar and the court below has held that in absence of proper entry made in the owner book mere agreement to sale or the sale will

not have any statutory value, unless proper entry is made in the owner book, reliance has been placed on the judgment reported in 2011 SC 682 where the Hon’ble Supreme Court has taken a view that unless proper entry is made in the owner book, it will not be treated that the vehicle has been transferred.

In view of the judgment of the Hon’ble Supreme Court, makes it clear the liability to pay the compensation amount ultimately goes to the original owner of the vehicle as no entry has been made in the owner book of subsequent sale, as provided u/s 2 (30) of the Motor Vehicle Act, the owner of the vehicle will be that person whose name is there in owner book, in such view of the matter, the responsibility cannot be shifted upon Mukesh Kumar to pay the compensation amount.

This Court does not find any error in the impugned order. Accordingly, this petition is dismissed.

(Shivaji Pandey, J)

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