

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.802 of 2012

- =====
1. The Divisional Manager, the Oriental Insurance Company Ltd., Shukla Complex, Kamhara Ghat Road, Hajipur
Opposite Party No. 3(i) appellant
2. The Branch Manger, the Oriental Insurance Company Ltd., New Market, Shalha Bazar, Purnea.
Opposite Party No. 3(ii) appellant
.... Appellants

Versus

1. Kanchan Mala, wife of late Sanjiv Kumar
2. Sudarshan Kumar, son of late Sanjiv Kumar
3. Sakshi Kumari, daughter of late Sanjiv Kumar
..... claimant no. (3) respondent
4. Satyam Kumar, son of late Sanjiv Kumar
..... claimant no. (4) respondent
2 to 4 are minors and respondent no.1 is natural guardian, 1 to 4 resident of Kanchanpur, P.O.- Rajasan, P.O.- Vidupur, District – vaishali.
5. Sikandar Yadav, son of Saltu Yadav, resident of Village + P.O.- Maranga, District- Purnea
Opp. No. 1 (4) respondent
6. Ram Kumar, son of Ganesh Mali, resident of Bhadopur, P.O.- Maranga, District – Purnea.
Opp. party no. (2) Respondent
.... Respondents

=====

Appearance :

For the Appellant/s : Mr. Sanjay Singh, Advocate
Mr. Bimlesh Kumar Jha, Advocate
For respondent no.1 : Mr. Subodh Prasad, Advocate
For respondent no. 5 : Mr. Sanjeev Kumar Singh, Advocate

=====

CORAM: HONOURABLE MR. JUSTICE AKHILESH CHANDRA

ORAL JUDGMENT

Date: 30-01-2015

Heard.

2. This is an Appeal preferred against the judgment dated 29.05.2012 and Award dated 08.08.2012 passed by the ADJ-cum-Accident Claim Tribunal, Vaishali, Hajipur in Claim Case No. 144 of 2010 by the Oriental Insurance Company Ltd..

3. Since this Appeal carries very limited question

there is no need to go into any further detail except the admitted position that out of the same accident earlier the claimant respondent had preferred Claim Case No. 106 of 2009 under Section 140 of the Motor Vehicles Act, 1988 wherein the Award was prepared and it was satisfied on payment by the Insurer appellant.

4. It is simply submitted that in view of earlier filing of Claim Case No. 106 of 2009, impleading the insurer appellant as party to it and, realizing the compensation as awarded, the claimant had no right to prefer another application either under Section 163 A or Section 166 of the Motor Vehicles Act, 1988.

5. Reliance is placed in the case of ***Veena Devi & Ors. Vs. Ram Nandan Prasad & Ors.*** reported in ***2013 (2) PLJR 123***. In spite of best efforts learned counsel for the respondent claimant had left with no option but to concede the legal position, as submitted above. Hence, the impugned judgment and Award is not sustainable. Consequently, set-a-side and the aforesaid Appeal is allowed.

6. Let statutory amount so deposited be returned to the appellant.

(Akhilesh Chandra, J)

Ashwini/-

U			
---	--	--	--