

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Appeal No.387 of 2012

United India Insurance Company Ltd. through Branch Manager, Ramashish Chowk, Hajipur

..... Opp. Party NO. 1 appellant

Versus

1. Sumitra Devi, W/O Late Shubh Narain Singh

2. Harischandra Kumar (Deceased), S/O Late Shubh Narain Singh

2(a). Kabit Devi @ Kabita Kumari W/O Late Harischandra Kumar

2(b). Lakhi Kumar, Minor son of late Harischandra Kumar

..... applicants - respondents

3. Prabhat Kumar Jha S/O Bhubneshwar Jha, Jawaharlal Road, Town – Muzaffarpur

..... O.P. No.2- respondent

4. Sanjay Singh, S/O Siya Ram Singh R/O Village- Fanda, P.S.- Karja, District- Muzaffarpur

..... O.P. No.3 respondent

5. Madhuri Devi, W/O Rabindra Singh R/O Village- Dumar, P.O.- Naya Ganj, P.S.- Sahdey Bujurg, District- Vaishali

..... O.P. No.4 2nd set-respondent

6. Nutan Kumari W/O Manoj Singh R/O Village + P.O.- Naya Ganj, P.S.- Mahnar, District- Vaishali

..... O.P. No.5 2nd set

7. Rita Kumari W/O Bijay Kumar Singh R/O Village- Math Mahabarak Sunpur Pandey Byahta, P.S.- Minapur, District- Muzaffarpur

.... O.P. 6 2nd set respondent

Appearance :

For the Appellant/s : Mr. Ram Chandra Lal Das, Advocate

For the claimant : Mr. Sanjay Kumar, Advocate

Mr. Shivji Singh, Advocate

For the owner : Mr. Shivpujan Singh, Advocate

Mr. Mukesh Kumar Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE AKHILESH CHANDRA

ORAL JUDGMENT

Date: 26-02-2015

Heard.

2. This appeal has been preferred by the
appellant United India Insurance Company Ltd. against



judgment and Award dated respectively 30th April 2012 and 14th May 2012 passed by the 2nd Additional Motor Claims Tribunal-cum-1st Additional District Judge, Vaishali, Hajipur in Claim Case No. 25 of 2000 denying the claim of the widow and son of the deceased Subh Narayan Singh, who died in a road accident on 26.11.1999.

3. During course of argument, single question is raised that in the First Information Report (Exhibit- 4) the offending vehicle Prabhat Coach Bus No.2539 is mentioned whereas the entire claim is preferred referring the vehicle bearing no. BR06 P 2555 and the appellant in the written statement has though taken objection of such changes taking place in connivance of owner of the vehicle respondent no.3, but claim tribunal has not taken into consideration the fact and issue.

4. In view of the limited question involved in this appeal there appears no necessity to refer other details which has already been mentioned by the claim Tribunal below in its judgment.

5. True it is, in the First Information Report (Exhibit-1) there is reference of another number but at the same time police after investigation submitted chargesheet



which is marked as Exhibit-1 wherein there is reference of the vehicle which finds place in claim application. The Insurer appellant has not adduced single evidence either oral or documentary nor could be able to assert and prove the assertion regarding variation of the vehicle numbers in the First Information Report and chargesheet.

6. It was open to the appellant to take steps to establish its own case made out in the pleading. He could have called upon the Investigating Officer, who conducted investigation in the case instituted after accident and the materials could have been placed indicating the reasons behind such difference in the First Information Report and chargesheet but nothing of the kind has come out. That apart though on behalf of the Insurer appellant letter written by its own investigator with respect to the driving licence of the offending vehicle (which finds mention in claim application i.e. BR06 P 2555) but again neither the said Investigating Officer is examined nor his letter or basis whereof, if any, is placed in evidence. All such inaction or laches on the part of the appellant completely disentitles the appellant to dispute the findings of the Court below and causing any delay in satisfying the Award against death of the deceased.

7. However, in the event the appellant after proper examining the materials available with it or on record, if so wishes, on its own risk may initiate proceedings for recovery of the amount awarded from the owner respondent 3 but only after satisfying the award within a month from today and keeping alive right of the owner to contest the claim, if preferred.

8. With the above observation, finding no merit, this appeal is hereby dismissed. Appellant is directed to satisfy the Award as awarded vide judgment and Award dated respectively 30th April 2012 and 14th May 2012 passed by the 2nd Additional Motor Claims Tribunal-cum-1st Additional District Judge, Vaishali, Hajipur in Claim Case No. 25 of 2000 within a month.

9. Let statutory deposit, if any, be remitted back to the claim Tribunal below for further needful.

(Akhilesh Chandra, J)

Ashwini/-

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