

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.933 of 2011

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The Manager, The New India Assurance Company Ltd

.... Appellant/s

Versus

Srimati Devi & Ors

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Raj Kumar Singh Vikram, Adv.

For the Respondent/s : Mr. Raghunandan Kumar, Adv.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL ORDER

8 09-09-2015

Heard counsel for the appellant and the respondents.

In the present case, Insurance Company being the appellant is challenging the award dated 25th April 2011 whereby and whereunder the Tribunal has computed an amount of Rs.2,58,816/- along with 6 per cent interest from the date of filing of claim application.

Counsel for the appellant submitted that while the deceased was going to Calcutta from Chapra by Coach bus bearing Regd.No. WB51 / 1340 on 5th November 2000 together with his Phuphera brother Mahesh Rai, when the coach reached near Madaidih bridge, the bus fell down dashing the bottom of bridge in which he received serious injury and subsequently died in course of treatment for which Topchanchi P.S.Case No. 143 of 2000 was registered under Sections 279, 337, 338, 427, 304A IPC as well as claim application was filed.

The Tribunal has computed the amount of compensation at Rs.2, 58,816/-. The vehicle was covered under the Insurance policy.

Counsel for the appellant submitted that the vehicle was being plied without proper and valid road permit, as such, its owner is responsible for making payment of compensation amount and the Insurance Company cannot be fastened with the responsibility to indemnify the owner on account of violation of terms of contract.

In such a situation, this Court and the Hon'ble Supreme Court have repeatedly held that the Insurance Company will pay the amount with liberty to realize the same from the owner.

In such view of the matter, this Court does not find any illegality in the order awarding compensation but liberty is given to the Insurance Company to recover the amount from the owner.

Counsel for the appellant submits that in terms of order dated 16th May 2014 passed in Certificate case No. 7 of 2012-13 the Insurance Company has already deposited a cheque for Rs.4,46,457.60 by the order of this Court the same was invested in the Nationalized Bank. In view of compliance of the

order dated 16th May 2014 no direction can be given to make further payment. The Certificate Officer is directed to release the aforesaid amount to the claimant along with interest if any, earned by Principal amount. So far statutory amount of Rs.25,000/- which is lying before this Court be remitted back to the court below for being released in favour of Insurance Company.

With this observation, this petition is dismissed.

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(Shivaji Pandey, J)