

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7557 of 2011

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1. The Branch Manager, New India Assurance Co. Ltd. Morcha Road, Patna City, Patna, Through The Deputy Manager And Constituted Attorney, Regional Office, New India Assurance Company Limited, 6th Floor, B.S.F.C. Building, Frazer Road, Patna.

.... Petitioner/s

Versus

1. The State Of Bihar Through The Law Secretary, Govt. of Bihar, Patna.
2. Rozina Khatoon W/O Late Abdul Shakoor Resident of Village Jamalchak, P.S. Sadar (Mabbi), Dist. Darbhanga.
3. Ran Vijay Prasad S/O Late Daya Nand Prasad Rai Resident of Goriya Toli, Station Road, Patna (Owner of Truck No. BR. 1G- 4694)

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Durgesh Kumar Singh

For the Respondent/s : Mr. Shail Kumari Sc15

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL

ORAL JUDGMENT

Date: 04-09-2015

Heard Mr. D.K. Singh in support of the application and A.C. to S.C. 15 for the State. No one has appeared for the private respondents.

Petitioner New India Assurance Company Ltd. is a Public Sector Undertaking owned by the Government of India and is aggrieved by the order dated 11.1.2011 (Annexure-6) passed by the learned District Judge, Darbhanga in Misc. Review No. 17 of 2009 by which the review/recall application filed by the petitioner company has been dismissed.

Brief facts in the backdrop of which the review application was filed by the petitioner Company are as under:-

The husband of the respondent no. 2 died in a road accident on



26.6.2008. A claim petition under Section 140 of the Motor Vehicles Act, 1988 was filed by her giving rise to Claim Case No. 87 of 2008 on the file of the Court/Tribunal. Along with the application, the insurance policy of the vehicle (Annexure-3) involved in the accident was enclosed. The Tribunal, considering the fact that the vehicle was insured by the petitioner company, directed for payment of compensation in the sum of Rs. 50,000/- to the claimant (respondent no. 2) and the proceeding was disposed of. Later, the petitioner company found the policy which was produced before the Court/Tribunal was fake/forged one. In such circumstances, the review application being Misc. Review No. 17 of 2009 was filed. The claimant as well as the owner of the vehicle was impleaded parties thereto. The owner of the vehicle, in spite of notice and substituted notice effected on him, did not appear. The learned District Judge by the order dated 11.1.2011 dismissed the said review application.

The counsel has contended that the order passed by the Court is cryptic in nature. Once the review application was admitted to hearing, the Court was required to pass a reasoned order. This has not been done. Referring to the case of the ***United India Insurance Assurance Company Ltd versus Rajendra Singh and Ors. (2000) 3 SCC 581***, he would argue that in case the order of the Court obtained by misrepresentation of facts or fraud, there is inherent power in the Court to recall or review the order since fraud vitiates everything.

The Apex Court in the said case in the backdrop of facts comparable to the present one, held that inherent power to recall such order secured by fraud or misrepresentation vests in the Court under Section 151 to 153 of the Code. He has also relied on **(2002) 7 SCC 456 (National India Insurance Company Ltd versus Nicolletta Rohtagi and Ors.** for the same proposition.

On going through the case laws on which reliance has been placed, it appears to this Court that the Tribunal/ Court which passed the order had the inherent jurisdiction to recall/review the order if obtained by fraud or misrepresentation. No one in law can be allowed to reap any benefit or privilege by practicing fraud on the Court. Purity of Court proceeding has to be maintained. That apart, the order which the learned District Judge passed does not set out reason in support thereof. Reason is the soul of the order.

In the circumstances, this Court is satisfied that the relief prayed in this application deserves to be allowed.

Resultantly, the writ application is allowed. The order dated 11.1.2011 passed by the District Judge, Darbhanga in Misc. Review No. 17 of 2009 is set aside. The matter is remitted to the Court below for passing a fresh order in accordance with law.

(Kishore Kumar Mandal, J)

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