

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Miscellaneous Appeal No.602 of 2010**

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Oriental Insurance Company Ltd. through the Regional Manager (Legal Deptt.),  
Regional Office, Pirmohani, Kadamkuan, Patna (For Oriental Insurance Company  
Ltd. through Divisional Manager, Near Rai Kashinath More, Gaya, Bihar)

.... Appellant/s

Versus

1. Ram Janam Yadav, son of late Udan Yadav, resident of Village- Mithapur, P.O.-  
Kanausi, P.S.-Konch, District-Gaya

..... applicants/respondents

2. Nunu Singh, son of Satyanarayan Singh, resident of Village-Ner, P.O.-Ner, P.S.-  
Makhdumpur, District-Jehanabad (owner of the vehicle Truck NO. WB-37 of  
5065).

.... (O.P. No. 2)/Respondent

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**Appearance :**

For the Appellant/s : Mr. Mukteshwar Prasad Singh, Advocate  
For the Respondent no.2 : Mr. Ravindra Kumar Sinha, Advocate

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**CORAM: HONOURABLE MR. JUSTICE AKHILESH CHANDRA**

ORAL JUDGMENT

**Date: 12-02-2015**

Heard the parties.

2. This is an Appeal preferred against judgment and  
Award dated 09.04.2010 and 21.04.2010 respectively passed by the  
Motor Vehicle Accident Claims Tribunal –Cum-District Judge,  
Gaya in Claim Case No. 1 of 2009.

3. Since this Appeal is of very limited question, there  
appears no necessity to go into the details of the respective case.

4. The only submission is that in spite of remaining  
issues, issue no.3, which reads as such :-

"iii). whether the driver of the said offending truck was in possession of valid driving licence at the time of accident.", the claim Tribunal below has not given any finding thereon.

5. True it is, the Courts are expected to consider and give findings on the issues settled but at the same time parties are not exempted from adducing any evidence either oral or documentary on the issues and without adducing any such evidence during an enquiry before the Court below be permitted to raise the objection that there is no finding on such issue.

6. Undoubtedly, the Insurer appellant has adduced no evidence on such issue. Now it is being submitted that subsequent to disposal of the case some materials have come to substantiate the fact that driver of the offending vehicle has not adequate licence at the relevant time.

7. It is also to be considered that the claimants are deprived of the benefits for last seven years.

8. In that view of the matter, Insurer appellant is directed to satisfy the Award within a month from the date of communication/receipt of the order and in the event they are satisfied on the materials available with him, may initiate proceeding for recovery of the amount at their own risk from the owner or driver of the offending vehicle.

8. With the above modification in the judgment and Award dated 09.04.2010 and 21.04.2010 respectively passed by the Motor Vehicle Accident Claims Tribunal –Cum-District Judge, Gaya in Claim Case No. 1 of 2009, the Appeal stands disposed of.

**(Akhilesh Chandra, J)**

Ashwini/-

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