

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Appeal No.432 of 2010

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1. Rinku Kuer, wife of Late Nakul Prasad alias Nakul Gupta.
 2. Parvati Devi, wife of Moti Prasad alias Moti Sah, both residents of Mohalla-Takiya, P.S. Sasaram(T), District-Rohtas.

.... Claimants/Appellants.

Versus

1. Shri Ashok Kumar, son of Shri Ram Chandra Sah, resident of Mohalla-Khilanganj, P.O. and P.S. Sasaram (T), District-Rohtas.
.....owner of vehicle/opposite party no.1.
2. The New India Assurance Company Limited through its Branch Manager, Branch Office, G.T. Road, Sasaram, District-Rohtas.

.....Insurer of vehicle/opposite party no.2.

.... Respondents.

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Appearance :

For the Appellants : Mr. Bajrangi Lal, Advocate.
For the Respondent No.1 : Mr. Subash Kumar, Advocate.
For the Respondent No.2 : Mr. Bimlesh Kumar Jha, Advocate.

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CORAM: HONOURABLE MR. JUSTICE RAJENDRA KUMAR MISHRA

ORAL JUDGMENT

Date: 10-04-2015

Heard learned counsel for the appellants, Respondent No.1
and Respondent No.2.

2. This Misc. Appeal has been filed on behalf of the claimants/appellants under Section 173 of the Motor Vehicle Act against the Judgment/Award dated 19.02.2010/23.10.2010 passed in M.V. Claim Case No.32 of 2004, whereunder the 2nd Additional District Judge-cum-Motor Vehicle Claims Tribunal, Rohtas (hereinafter referred to as “the Tribunal”) dismissed the claim application of the claimants/appellants filed under Section 163(A) of the Motor Vehicle Act, 1988.



3. The brief facts leading to this Misc. Appeal is that the deceased, Nakul Prasad alias Nakul Gupta, respectively husband and son of the claimants used to drive the Mahendra Bolero Jeep bearing Registration No.BR-24P-0489 of Ashok Kumar (opposite party no.1/Respondent No.1). The deceased, Nakul Prasad alias Nakul Gupta, left Sasaram in the evening on 03.03.2004 with the Mahendra Bolero Jeep bearing Registration No.BR-24P-0489. In course of driving and stealing the said vehicle, he was murdered and his dead body was seen in the agricultural field of village-Bhual Chapra, P.S. Shahpur (Karnampur), District-Bhojpur. Thereafter, on the basis of the statement of Chowkidar, Moti Lal Yadav, Shahpur (Karnampur) P.S. Case No.29 of 2004 dated 03.03.2004 under Sections 302 and 201 of the Indian Penal Code was registered against unknown criminals. At the time of accident, the vehicle in question was insured with the New India Assurance Company (opposite party no.2/Respondent No.2). As such, the claimants/appellants claimed Rs.4,41,500/- as compensation.

4. The learned Tribunal after perusing the pleadings of the parties and the evidence available on the record dismissed the aforesaid Claim Application filed on behalf of the claimants/appellants through the impugned Judgment and Award.

5. Learned counsel for the appellants submits that there is

sufficient evidence on the record to show that the deceased, Nakul Prasad alias Nakul Gupta, who was driving the vehicle in question was murdered for the purpose of committing theft of the vehicle in question but the learned Tribunal held otherwise and dismissed the claim application filed on behalf of the claimants/appellants.

6. From perusal of the Impugned Judgment and Award, it appears that the learned Tribunal while deciding Issue Nos.2 and 3, discussed the oral and documentary evidence available on the record in detail and arrived at the conclusion that there is no evidence on the record except the hearsay evidence to show that the deceased, Nakul Prasad alias Nakul Gupta, was driving the vehicle and during the course of driving he was murdered for the purpose of committing theft of the vehicle and, accordingly, dismissed the aforesaid claim case of the claimants/appellants.

7. I find no illegality and infirmity in the impugned Judgment and Award. Accordingly, this Misc. Appeal stands dismissed.

(Rajendra Kumar Mishra, J)

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