

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Appeal No.4 of 2013

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The Oriental Insurance Company Ltd. The Branch Manager, Ranchi
Road Biharsharif, District - Nalanda

.... Appellant

Versus

1. Suresh Prasad, son of Raghu Nandan Prasad
2. Chanchal Kumari, Daughter of Suresh Prasad
3. Champa Kumari, Daughter of Suresh
Resident of Sagobad, Thana – Nardiganj, District – Nawada
4. Deepak Kumar, son of Late Ram Prasad
Presently living in village – Kul, Thana & District – Nalanda

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Bimlesh Kr. Jha, Advocate

For the Respondent no. 4: Mr. Rajesh Kumar, Advocate

For the Respondent no. 1 to 3: Mr. Rabi Bhushan Prasad- 1, Advocate

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CORAM: HONOURABLE MR. JUSTICE AKHILESH CHANDRA

ORAL JUDGMENT

Date: 23-01-2015

Heard learned counsel for the parties.

2. This appeal has been preferred against judgment and award dated 21.07.2012 and 26.07.2012 passed by Additional District Judge – IV – cum – Motor Accident Claim Tribunal, Nalanda, in connection with Claim Case No. 79/2007.

3. It is submitted by learned counsel representing respondent no. 4, the owner of the offending vehicle, one Rajgir P.S. Case No. 1 of 2007 has been instituted after the accident which is still pending, but nothing is yet decided.

4. This is an appeal preferred by the appellant insurer of the offending vehicle, since there is no dispute as

regard to manner of accident, quantum of compensation and entitlement of the claimant etc. Hence, it is not required to refer all such details. The only point involved is that the liability to pay the compensation whether is to be of the insurer appellant as awarded by Claim Tribunal or upon the owner who despite valid service of notice avoided appearance before the court below.

5. In face of Exhibit – A & B, the documents filed and relied upon by the insurer and proved Exhibits by its own witness the investigator Raj Kumar Sinha. After some arguments, it is accepted that if the appeal is disposed of with only modification in the award as to giving right to the appellant insurer if convinced on the materials available initiate proceedings for recovery of the amount so paid to the claimants from owner of the offending vehicle without affecting his right to contest.

6. Accordingly, this appeal stands disposed of. Simultaneously, learned counsel for the appellants is directed to satisfy the award within six weeks from today.

7. The statutory amount deposited by the appellant be returned to the court below for further needfuls.

(Akhilesh Chandra, J.)

Rajeev/-

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