

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Appeal No.403 of 2013

=====

The Branch Manager, National Insurance Co. Ltd. Saran at Chapra represented through its Chief Regional Manager and the Constituted Attorney, Regional Office, National Insurance Co. Ltd. 4th Floor, Sone Bhawan, B.C. Patel Marg, PS-Sachivalaya, District-Patna.

.... Appellant

Versus

1. Jilaba Devi wife of Late Shiva Dutta Singh @ Shiva Datt Prasad, resident of village-Rajapur, PS-Ekma, District-Chapra at Saran.
2. Saroj Prasad
3. Sunil Prasad
4. Shyam Sher
5. Santosh Prasad
6. Dharmendra Prasad
7. Ramendra Prasad
8. Bablu Prasad
- All sons of Late Shiva Dutta Singh @ Shiva Datt Prasad, resident of village-Rajapur, PS-Ekma, District-Chapra at Saran.
9. Phulwari Devi daughter of Late Shiva Datta Singh, wife of Parmatma Prasad, resident of village –Sasava, PS-Rasulpur, District-Saran at Chapra.
10. Durgawati Devi daughter of Late Shiva Datta Singh, wife of Sanjay Prasad, resident of village –Tarenwa, PO-Madharpur, PS-Sisawan, District-Saran at Chapra.
11. Sri Manoj Kumar Singh son of Sri Suresh Prasad Singh, resident of village –Katokhar, PO-Gola Mubarakpur, PS-Manjhi, District-Saran at Chapra.

.... Respondent/s

=====

Appearance :

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

For the Respondent/s : M/s Rajesh Kumar and Anil Kr. Saxena, Adv.

=====

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 17-08-2015

Heard learned counsel for the appellant and
learned counsel for the respondents.

In this case, it appears that the victim-deceased was travelling in Jeep bearing registration No. BR-04B-5008 was dashed from rear side by a truck coming from Siwan, resulted into death of victim.

The counsel for the appellant submits that the

court below has not properly framed the issues, nor he has dealt with the fact of the case and has straight way calculated the amount of compensation without going to the consideration of the fact. The jeep and truck were insured and the truck was an offending vehicle.

There is no dispute that the entire amount should be paid by the insurer. If it is a contributory negligence, the amount cannot be fastened on single Insurance Company only, as this issue has not been gone into.

As the court below has not gone into consideration of the fact, has straight way calculated the amount, passed the impugned order dated 18/12/2012 in Claim Case No. 63 of 2009, is set aside and the matter is remanded back to the District Judge-cum-Claim Tribunal Judge, Saran at Chapra to frame the proper issue and decide the case in accordance with law.

The statutory amount be remitted back to the court below and same would be paid to claimant. The court below is directed to conclude the trial within a period of three months from the date of receipt/production of a copy of this order. The Office is directed to remit back the Lower Court Records to the proper Court.

Accordingly, the appeal is allowed to the aforesaid extent.

(Shivaji Pandey, J)

Mahesh/-

U			
---	--	--	--