

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.472 of 2012

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1. The Branch Manager, Ilici Lombard General Insurance Company Limited, Kachahari Branch, Begusarai, Through Its Constituted Attorney Legal Manager, Regional Office, Eldico Corporate Chamber 1,4the Floor, Vibhuti Kund, Gomti Nagar, Luchnow

.... Appellant/s

Versus

1. Hari Lal Ray S/O Late Bola Ray R/O Village - New Zafar Nagar, P.S. Sahebpur Kamal, Distt. - Begusarai
2. Abha Devi W/O Hari Lal Ray R/O Village - New Zafar Nagar, P.S. Sahebpur Kamal, Distt. - Begusarai
3. Sharma Subodh Puri S/O B. Puri R/O 300, Ashok Garh, Kol - 35, Kalkata - 700035
4. Anil Kumar Ray S/O Late Raja Ray R/O 7/1, P.W.D. Road, Kolkata 35

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Rajesh Ranjan

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL ORDER

8 15-09-2015

Heard counsel for the appellant and the respondents.

In the present case limited point has been raised that the driver of the offending vehicle at the time of accident was holding fake driving licence.

As it appears the victim was dashed by the truck bearing Regd. No.WB-23A / 4899. The court below has found that the petitioner is entitled to compensation of Rs.2,05,500/-.

The limited ground has been raised that the driver was holding fake driving licence, the Insurance Company cannot be compelled to indemnify the owner of the vehicle. Such

situation has been dealt with on many occasions by the Hon'ble Supreme Court and this Court where it has been held that the Insurance Company will pay the amount of compensation and liberty has been given to recover the said amount from the owner of the vehicle.

Counsel for the appellant submits the issue of holding of fake driving licence was not raised earlier before the Tribunal, the Company prays it should be given liberty to raise this issue and the court below be directed to hold enquiry and record a finding on the issue.

Looking to the nature of prayer, this matter is remanded back on the limited issue that the Tribunal will hold an enquiry about the genuineness of the driving licence of the truck driver and if it is found that he was not holding valid licence at the relevant time, the Insurance Company will have liberty to recover the compensation amount from the owner of the truck. This limited remand does not mean to put in abeyance the payment of compensation amount. The court below will consider the aforesaid issue only after payment of the said amount to the claimant.

The statutory amount lying before this court should be remitted back to the court below and the same should be

released in favour of the claimant which will be adjusted against the awarded amount.

Office is directed to return the lower court records forthwith.

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(Shivaji Pandey, J)