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IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.390 of 2013

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1. Fareeda Khatoon W/O Late Aslam Pervez Resident Of Village Chack Begaum Ps. Kalyanpur Dist. Samastipur, Bihar
2. Md. Monaur S/O Late Aslam Pervez (Under The Care And Guardianship Of His Mother Appellant No. 1) Resident Of Village Chack Begaum Ps. Kalyanpur Dist. Samastipur, Bihar
3. Md. Tasur Minor S/O Late Aslam Pervez Resident Of Village Chack Begaum Ps. Kalyanpur Dist. Samastipur, Bihar
4. Md. Afghan Minor S/O Late Aslam Pervez Resident Of Village Chack Begaum Ps. Kalyanpur Dist. Samastipur, Bihar
5. Abza @ Ruhi Minor D/O Late Aslam Pervez Resident Of Village Chack Begaum Ps. Kalyanpur Dist. Samastipur, Bihar

.... Appellant/s

Versus

1. Branch Manager, New India Assurance Company, Magardahi Ghat, Near Laxmi Talkies Samastipur, Through Chief Regional Manager New India Assurance Comp. Ltd. Bsfc Building, Frazer Road, Patna

.... Respondent/s

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Appearance :
For the Appellant/s : M/s Mukesh Prasad Singh & A.H.Sahara, Adv.
For the Respondent/s : Mr. Raj Kumar Singh Vikram, Adv.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL ORDER

5 17-08-2015 Heard the counsel for the appellants and the respondent.

In this case, accident had taken place on 4th June 2009 in which two persons, namely, and Aslam Pervez had received injuries in motor-cycle accident. Md. Harun was driving the motor-cycle, dashed Aslam Pervez, cyclist. Harun died during treatment in P.M.C.H. on 9th June 2009 and Aslam Parvez died on 5th June 2009. Accordingly, Police posted at PMCH recorded the statement of Md. Khurshid where name of Aslam Parvez and

motor-cycle Number are missing but later on final (Annexure-2) form was submitted, shows that Motor-cycle Registration Number was HR 13B /7371 was released in favour of wife of Md. Harun, namely, Gulshan Begam. She is not a party to the compensation case. The court has recorded a finding that said motor-cycle is standing in the name of Hassan who is resident of Haryana whereas Harun is resident of Bihar. An application has been filed for impleading Gulshan Begam as party to the appeal but this will not cure the primary defect which can be cured only through proper application before the court below. The court has recorded that in the FIR number of motor cycle was unknown. It also does not show that Harun was driving Motor-cycle HR 13B /7371. As there is a discrepancy in the name of owner, this Court does not find any error in the order on two count s, firstly, the owner of the vehicle is not a party and secondly from the FIR it does not show that the vehicle in question was involved in the incident. This appeal is accordingly, rejected. However, any finding recorded in the proceeding under Section 140 of the M.V.Act will not cause any prejudice or will not be taken into consideration by the court below, while deciding the case in regular trial.

Counsel for the appellants wants that he should be allowed to implead Gulshan Begam as party to the claim

application. If so advised, appellants would file such application in the court below in turn other side will have right to raise objection for impleadment and the court below will pass appropriate order in accordance with law.

(Shivaji Pandey, J)

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