

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.3202 of 2014

In
MA 422 of 2012

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The Branch Manager, National Insurance Company Ltd., Rajendra Nagar, Nawadah, represented through Sri Anjani Kumar, working as A.O. and duly constituted attorney of National Insurance Company Ltd. having its Regional Office at 4th Floor, Sone Bhawan, P.S. Sachiwalaya, District Patna

.... Petitioner/s

Versus

1. Daulat Devi wife of late Mundrika Singh,
2. Meena Devi, wife of late Shambhu Sharan Singh
3. Shilpi Kumari, daughter of Late Shambhu Sharan Singh
4. Suruchi Kumari, daughter of late Shambhu Sharan Singh.
5. Deepak Kumar son of late Shambhu Sharan Singh, respondent No.4 and 5 are minors represented through their mother Meena Devi the natural guardian all resident of May, P.O. Mangaur, P.S. Warsaliganj, District Nawadah.....Claimants...respondent 1st set...opposite party 1st set
6. Sanjeev Kumar son of Sri Masudan, resident of village Reora, P.O. Bauri, P.S. Kashi Chak, District Nawadah (Owner of the vehicle bearing its registration no. BR 27-3508(jeep)...O.P.No.2, Respondent 2nd Set...Opposite party 2nd set.
7. Manoj Kumar son of Basishta Singh, resident of village Mafi, P.S. Warsaliganj, District Nawadah(Driver of the vehicle bearing its registration no. BR 27-3508 (Jeep).....O.P.No.3 Respondent 2nd set
..... opposite party 2nd set
.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shailendra Kumar, Adv.

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

4 02-03-2016 Heard Mr. Shailendra Kumar learned counsel for the petitioner.

This application has been filed for restoration of Misc. Appeal No.422 of 2012 which stands dismissed for non compliance of the order dated 23.7.2013 whereunder the appellant was granted time to remove the stamp reporter's defect within four weeks which order was peremptory in nature. The order not being complied, the memo of appeal stood dismissed on 20.8.2013.

Mr. Shailendra Kumar learned counsel for the petitioner has submitted that there were two defects pointed out by the stamp reporter of which the defect relating to filing of certified copy was removed on 19.6.2014 but in so far as the statutory amount required to be deposited for maintaining an appeal under Section 173 of the Motor Vehicle Act is concerned, the same is not being accepted by the office by virtue of the dismissal of the appeal. He prays for time until 31.3.2016 to remove the said defect. He also informs the Court that the filing of the limitation petition can only be carried out after final stamp reporting which awaits the deposit of the statutory amount.

Having heard learned counsel for the petitioner and for the reasons so assigned in this application, the peremptory period granted under order dated 23.7.2013 is extended until 31.3.2016 and if the appellant going by his undertaking deposits the statutory amount, the Miscellaneous Appeal in question would stand restored and can proceed for stamp reporting, however, in case the petitioner fails to deposit the statutory amount by 31.3.2016, this order would stand recalled.

This application is allowed subject to the stipulations made above.

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(Jyoti Saran, J)