

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Appeal No.590 of 2013

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Suresh Prasad Singh, son of Late Badho Singh resident of village Rampur, P.S. Surajgarha, District- Lakhisarai (Claimant).

.... Appellant

Versus

1. Md. Mustaque Alam, Son of Late Abdul Gaffar at Koldiha, P.O. and P.S. Giridih, District Giridih (Jharkhand) (owner of Truck No. JH- 11A-9561).
2. Nakul Mahto, son of Sadhu Mahto, Tilak Nagar, Indore (M.P.) at present Panchamba, P.O. and P.S. Giridih, District Giridih (Driver of the Vehicle).
3. The New India Assurance Company Limited, Branch Dhanbad through Dhanbad Development Officer/ Agent N. 234/98742 At P.S.+ P.O. + District Dhanbad (Jharkhand).
4. The New India Assurance Company Limited, Patna Regional Office, Patna under the Policy No. 789249/06/00748 for the period of 06.03.2006 to Mid Night of 05.03.2007.

.... Respondents

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Appearance:

For the Appellant/s : Mr. Niraj Kumar, Advocate.

For the Respondent nos. 3 & 4 : Mr. Bimlesh Kumar Jha, Advocate.

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CORAM: HONOURABLE MR. JUSTICE PRAKASH CHANDRA JAISWAL

ORAL JUDGMENT

Date: 16-10-2017

Heard learned counsel for the appellant and learned counsel for the respondent nos. 3 and 4 on this miscellaneous appeal and perused the record. Respondent nos.1 and 2 did not put their appearance in the case despite service of notice.

2. This miscellaneous appeal has been filed against the judgment dated 26.07.2013 and award dated 03.08.2013 passed by the Additional District Judge-cum-Motor Accident Claim Tribunal, Lakhisarai in Claim Case No. 51 of 2006, whereby the learned Tribunal allowing the aforesaid case directed the owner of the



offending vehicle, namely, Md. Mustaque Alam to pay the compensation to the tune of Rs. 1,40,000/- to the claimant within three months from the date of order.

3. Factual Matrix of the case is that the claimant filed Claim Case No. 51 of 2006 under Section 166 of the Motor Vehicles Act for awarding compensation to the tune of Rs. 20,00,000/- on account of sustaining injury by his son Navin Kumar @ Monu in the motor vehicle accident with the case in succinct that on 27.08.2006 at about 3 PM, Navin Kumar @ Monu aged about 15 years was proceeding to market but on the way a truck bearing Registration No. JH-11A-9561 being driven rashly and negligently by its driver dashed Navin Kumar @ Monu inflicting severe injury to him. He was rushed to the hospital and was treated in local hospital, Lakhisarai and from there he was referred to PMCH, Patna. He was treated in Jagdamba Nursing Home, Patna for better treatment. He has sustained severe injury in his left and right leg and is unable to move and undertake his personal work. He had made expenses to the tune of Rs. 1,25,000/- on the said treatment and also made expenses towards food and diet in course of his ailment and in travelling in the course of aforesaid treatment.

4. The owner and driver of the aforesaid vehicle did not put their appearance in the case despite service of notice while



Opposite party nos.3 and 4, namely, New India Assurance Company Limited turned up in the case and filed written statement submitting, inter alia, that the offending vehicle was not insured by it at the relevant time of accident. Hence, Opposite Party Nos. 3 and 4 – New India Assurance Company Limited is not liable to pay any compensation to the claimant indemnifying the owner of the vehicle.

5. After hearing the parties and perusing the record, the learned Tribunal passed the aforesaid judgment and award as detailed in the earlier paragraph.

6. Being aggrieved and dissatisfied with the impugned judgment and award, the claimant has filed this miscellaneous appeal.

7. It is submitted by learned counsel for the claimant that quantum of compensation awarded by the learned Tribunal is not adequate as the Tribunal has not awarded compensation towards expenses made by the appellant on food and diet given to the injured during the course of his ailment and in travelling borne by him in the course of treatment and also towards pain and suffering faced by the injured by the aforesaid accident.

8. On the other hand, the learned counsel for respondent nos. 3 and 4 submitted that the quantum of compensation awarded by the Tribunal, considering the facts and circumstances of



the case is correct and adequate and the aforesaid judgment and award is liable to upheld.

9. From perusal of the record, it appears that the appellant has filed this appeal, mainly, assailing the quantum of compensation awarded by the Tribunal. From perusal of the record, it appears that the Tribunal has awarded Rs. 1, 25,000/- towards the medical expenses made by the claimant on the treatment of the injured and Rs. 15,000/- as compensation for injury. But besides the aforesaid compensation, I also think it proper and adequate to award Rs. 25,000/- towards food and diet which the claimant would have made in according food, fruits and rich diet to the injured for early recovery and healing up of the wound, Rs. 15,000/- towards travelling expense which the claimant would have made in rushing from Lakhisarai to Patna along with the injured and other attendant several times in course of treatment and Rs. 25,000/- towards the pain and suffering and trauma faced by the injured sustaining severe injury in the accident. As evident from the record, he had sustained four injuries (i) Lacerated wound of the dimension of 20 cm x 10 cm x muscle deep over anterior Catral Posterial aspect of left thigh (ii) Lacerated wound of the dimension of 15cm x 2.5 cm x bone deep on right thigh (iii) a lacerated wound of the dimension of 20 cm x 5-10 cm x muscle deep over anterior shadial aspect of left leg and (iv)



Lacerated wound over 1/3rd of right leg.

10. On addition of the aforesaid amount of compensation and amount of compensation awarded by the Tribunal, the total amount of compensation comes to the tune of Rs.2,05,000/-.

11. In the facts and circumstances of the case, the owner of the offending vehicle, namely, Md. Mustaque is directed to pay the aforesaid amount of compensation along with the interest at the rate of 6% per annum to the claimant from the date of order. Accordingly, the impugned judgment and award passed by the learned Tribunal stands modified and this appeal stands allowed.

(Prakash Chandra Jaiswal, J)

Mishra/-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	17.10.2017
Transmission Date	

