

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Appeal No.646 of 2012

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1. The United India Insurance Company Ltd., Alam Market, Girl High School Road, Katihar, Distt- Katihar.
 2. 2. United Inida Insurance Company Limited, Rajendra Prasad Road, Bhagalpur, Appeal And Appellants Through The Manager & Constituted Attorney, Regional Officer, United India Insurance Company Limited, 3rd Floor, Chanakya Towers, R' Block, Patna.

.... Appellant/s

Versus

1. Sita Devi W/O Sant Lal Rishi Resident Of Village Pothiya Ghat, P.S- Mufassil, Distt- Katihar, At Present Address - At Mushahari Tola, Naugachhiya, Distt- Bhagalpur.
2. Manoj Rishi S/O Sant Lal Rishi Resident Of Village Pothiya Ghat, P.S- Mufassil, Distt- Katihar, At Present Address - At Mushahari Tola, Naugachhiya, Distt- Bhagalpur.
3. Urmila Devi S/O Sant Lal Rishi Resident Of Village Pothiya Ghat, P.S- Mufassil, Distt- Katihar, At Present Address - At Mushahari Tola, Naugachhiya, Distt- Bhagalpur.
4. Harmendra Kumar S/O Sant Lal Rishi Resident Of Village Pothiya Ghat, P.S- Mufassil, Distt- Katihar, At Present Address - At Mushahari Tola, Naugachhiya, Distt- Bhagalpur.
5. Mithun Kumar S/O Sant Lal Rishi Resident Of Village Pothiya Ghat, P.S- Mufassil, Distt- Katihar, At Present Address - At Mushahari Tola, Naugachhiya, Distt- Bhagalpur.
6. Nirmala Kumari D/O Sant Lal Rishi Resident Of Village Pothiya Ghat, P.S- Mufassil, Distt- Katihar, At Present Address - At Mushahari Tola, Naugachhiya, Distt- Bhagalpur.
7. Rajendra Singh S/O C. Singh Resident Of House No. 13, Mour Bhanj Road, Kolkata

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. DURGESH KUMAR SINGH



For the Respondent/s : Mr.

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CORAM: HONOURABLE THE CHIEF JUSTICE
ORAL JUDGMENT

Date: 01-07-2017

This is an appeal filed by the Insurance Company under Section 173 of the Motor Vehicles Act calling in question the tenability of a judgment and order dated 2.3.2012, passed by the Additional District Judge-cum-Motor Accident Claims Tribunal-IV, Naugachia, Bhagalpur in Claim Case No.110 of 2009.

The claim petition was filed under Sections 165 and 166 of the Motor Vehicles Act claiming compensation on the death of her husband late Sant Lal Rishi. The claimants are the wife and the children of late Sant Lal Rishi who died in the motor accident on 18.10.2007, at 10:00 p.m., when a truck bearing Regn. No.WB 19 4139, owned by respondent No.7 dashed against the deceased. The vehicle was insured with the appellant Insurance Company vide policy, details of which are given in the claim petition, and it was found that the insurance was alive for the period 1.7.2007 to 30.6.2008. After evaluating various aspects of the matter, the learned Tribunal has awarded a compensation of Rs.4,19, 800/-.

As far as the detailed assessment of the compensation and the reasons for the same given in para 7 of the judgment is concerned, this Court does not find any case made out for indulgence



into the matter. However, learned counsel for the Insurance Company makes a statement that policy documents and other documents pertaining to the vehicle in question, namely the driving licence and the charge-sheet of the criminal case were not filed. However, records indicate that the Insurance Company, except for making statements in the written statement that the driver was not having a licence or that the vehicle was not meeting the requirement of the policy, did not lead any evidence in support of the aforesaid contention and as the Insurance Company failed to prove these allegations by leading evidence and substantiating their contention, I do not find any error has been committed by the learned Tribunal in fastening the liability on the Insurance Company.

Accordingly, finding no merit in the appeal, this appeal is dismissed.

The amount ordered to be paid by the Insurance Company be now deposited after adjustment of the statutory deposit within 60 days from today failing which the amount shall carry further interest at the rate of 12% per annum from the date of the order passed by the learned Tribunal.

Statutory amount, if any, deposited with the Patna High Court shall also be returned to the Tribunal for settlement and payment.



A copy of the order be sent to the Tribunal for necessary compliance.

(Rajendra Menon, CJ)

K.C.jha/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	7.7.2015
Transmission Date	N/A

