

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.2316 of 2015
IN
Civil Writ Jurisdiction Case No. 763 of 2010**

=====

Alok Kumar Jha Son of Sri Rajendra Jha Resident of village - Kulharia, P.S. -
Amarpur, District - Banka.

.... Appellant

Versus

1. Bhagmati Devi Wife of Late Anurag Sahani Resident of Village - Tajawa,
Koimgawa, P.S. - Pipra, District - East Champaran, Motihari.
2. Pappu Mistry @ Md Sattar @ Samim Son of Md Kismat Ali @ Salim Resident
of Sahganji, P.S. Habibpur, District - Bhagalpur.

.... Respondents

=====

Appearance :

For the Appellant : Mr. Ajay Kumar Jha, Advocate

For the Respondents : Mr.

=====

CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

and

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date: 07-02-2017

For the reasons indicated in I.A. No. 9999 of 2015,
delay of 104 days is condoned and the matter is taken up on merits.

The appellant has been saddled with the liability of
payment of Rs. 50,000/- as compensation along with 6% interest in a
proceeding initiated under Section 140 of the Motor Vehicle Act.
The vehicle caused death of one Anurag Sahani and in the
proceeding it emerged that the appellant was the owner of the
vehicle. The owner-book reflected the name of this appellant.

A defence or a plea was taken that the vehicle had
already been sold to Pappu Mistry @ Md. Sattar on 18.04.2008 and,



therefore, liability is of Pappu Mistry @ Md. Sattar.

The learned single Judge has refused to buy the story of defence because the official records have no reflection about the sale and there is also some issue with regard to fraud played by Pappu Mistry @ Md. Sattar because he pasted the photograph showing the vehicle of the appellant for the release of the vehicle.

In these circumstances, naturally the liability of the appellant has not been waived. The learned single Judge, however, has given adequate leeway to him to make the recovery by intending a proper procedure if he has requisite evidence and supporting material to establish the factum of sale before the date of the accident.

The order of the learned single Judge does not suffer from any infirmity which requires any interference.

The appeal is dismissed.

(Ajay Kumar Tripathi, J)

(Nilu Agrawal, J)

Pawan/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	07.02.2017
Transmission Date	N/A

