

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.2281 of 2016

In
MA 660 of 2013

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1. The Branch Manager, the New India Assurance Company Ltd. Branch Office, Sasaram (Opposite Anandi Cinema)

.... Petitioner

Versus

1. Rina Devi Alias Rina Kunwar W/o late Jitendra Kumar Yadav@Jitendra Kumar

2. Chintu Kumar (Minor)

3. Sujit Kumar (Minor)

Reena Devi@Reena Kumar is legal guardian of Respondents No. 2 &3

4. Phulpato Devi@ Kulpata Devi W/o Sri Gupteshwar Yadav

All Resident of Village- Dharahara, PO. & P.S Darihat ,Distt Rohtas

5. Sri Rajaram Rai S/o Rajballabh Rai, R/o A.S. Ganeshpura, Gaziabad, U.P. A/p temporary H/o village- Baijala, P.O. Moker, District- Rohtas(Bihar).

.... Opp.Parties.

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Appearance :

For the Petitioner/s : Mr. Bimlesh Kumar Jha, Adv.

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

5 05-07-2017 Heard Sri Bimlesh Kumar Jha, learned counsel for the petitioner.

The present petition has been filed with a prayer to restore M.A.No.660 of 2013, which stood dismissed due to non-compliance of peremptory order dated 17.10.2014.

Learned counsel for the appellant was permitted to file certified copy of the Award by 14th November, 2014. It was further indicated that in case Award was not prepared, the appellant was required to file affidavit to this effect by 14th November, 2014.

Sri Bimlesh Kumar Jha, learned counsel for the



appellant/petitioner submits that due to unavoidable circumstances, Award could not be filed but the same was filed on 10.08.2015. He further accepts that Award was prepared on 25.07.2013. Normally, in the Motor Vehicle Act, the appeal was to be filed with Award. Though Award was prepared, it was not filed till date of the order i.e. 17.10. 2014 and even in view of peremptory order, the appellant had also not filed any affidavit to this effect by 14th November,2014, which was mandatorily required.The appeal i.e. Misc. Appeal No.660 of 2013 was filed against the Judgment and Award of Motor Vehicles Accidental Claim Tribunal, in which in view of death, compensation was awarded . Though accident had occurred long back on 03.08.2008, even in the petition no plausible explanation has been given for non-compliance of the peremptory order.

I do not find any reason to allow the restoration petition.
The restoration petition stands dismissed.

(Rakesh Kumar, J)

NKS/-

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