

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.320 of 2013

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The Manager, The New India Assurance Co. Ltd., Bhagalpur, Represented
Through The Chief Regional Manager, Regional Office, New India Assurance Co.
Ltd., 6th Floor, Bsfc Building, Frazer Road, Patna-1

.... Appellant/s

Versus

1. Mostt. Radha Devi W/O Late Ashok Thakur Resident Of Village- Madhopur, P.O- Masumganj, P.S- Asarganj, Distt- Munger.
2. Gunja Kumari D/O Late Ashok Thakur Resident Of Village- Madhopur, P.O- Masumganj, P.S- Asarganj, Distt- Munger.
3. Sanjeev Kumar S/O Late Ashok Thakur Resident Of Village- Madhopur, P.O- Masumganj, P.S- Asarganj, Distt- Munger.
4. Mamta Kumari D/O Late Ashok Thakur Resident Of Village- Madhopur, P.O- Masumganj, P.S- Asarganj, Distt- Munger.
5. Rahul Kumar S/O Late Ashok Thakur Resident Of Village- Madhopur, P.O- Masumganj, P.S- Asarganj, Distt- Munger.
6. Raj Kumar S/O Late Ashok Thakur Resident Of Village- Madhopur, P.O- Masumganj, P.S- Asarganj, Distt- Munger.
7. Neeraj Kumar S/O Late Ashok Thakur Resident Of Village- Madhopur, P.O- Masumganj, P.S- Asarganj, Distt- Munger.
8. Shubham Kumar S/O Late Ashok Thakur Resident Of Village- Madhopur, P.O- Masumganj, P.S- Asarganj, Distt- Munger.
9. Smt. Sharda Devi W/O Dineshanand Jha Resident Of Mohalla- Bilasi Town, P.O & P.S- Deoghar, Distt- Deoghar (Jharkhand)
10. Ajit Chand S/O Sir Mundra Chand Resident Of Duma Bazar, At P.O+ P.S And Distt- Dumka

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Raj Kumar Singh Vikram, Adv
For the Respondent/s : Mr. Ambrish Kumar Jha, Adv
Mr. Shashi Priya Pathak, Adv

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CORAM: HONOURABLE THE CHIEF JUSTICE
ORAL JUDGMENT

Date: 13-07-2017

This is an appeal by the Insurance Company calling
in question the liability imposed upon the Insurance Company by the
judgment and award passed by the Motor Vehicle Accident Claim
Tribunal, Munger in Claim Case No. 70 of 2007.



The challenge made is to the effect that the liability imposed upon the Insurance Company is unsustainable as the question of the vehicle plying without proper permission and the driver of the vehicle having no license to ply the vehicle, has not been considered properly by the Tribunal while passing the award.

Learned counsel for the Insurance Company invites my attention to the statement of the witness of the Insurance Company namely Sri. Arvind Kumar Sinha and Exhibit-A namely the report submitted by him goes to show that after investigation conducted by the Insurance Company, it was found that the vehicle was not having valid permit and the driving license said to have been issued, was not valid.

There is no rebuttal to this investigation report and the statement of Sr. Arvind Kumar Sinha who was the Investigating Officer and the records show that the witness was not cross examined even though he was available and present for cross examination. That being the position and there being no rebuttal to the issue, the award is liable to be interfered with.

Accordingly, this appeal is allowed. The award in question is modified to the extent that the liability for paying and making the award shall be on the owner and the driver of the vehicle and the Insurance Company, after payment of the compensation to the



claimants, shall have liberty to recover the amount from the driver and owner of the vehicle. The statutory amount and the records shall be transmitted back to the Tribunal and the Tribunal shall ensure that payments of the amount paid to the claimants within a period of sixty days.

With the aforesaid, the application stands allowed.

(Rajendra Menon, CJ)

Shageer/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	18/07/2017
Transmission Date	NA

