

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Appeal No.852 of 2012

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1. Yugal Singh @ Yugul Kishore Singh S/O Late Shri Ram Singh R/O Village - Sarana Math, P.O. Bhanpur, P.S. Dinara, Distt. - Rohtas (Sasaram)

.... Appellant/s

Versus

1. Yogendra Pandey S/O Late Jagdish Pandey R/O Village - Sarana Math, P.O. Bhanpur, P.S. Dinara, Distt. - Rohtas (Sasaram)
2. Mrs. Ramawati Devi W/O Yogendra Pandey R/O Village - Sarana Math, P.O. Bhanpur, P.S. Dinara, Distt. - Rohtas (Sasaram)
3. Most. Kunwara Kuer W/Olate Jagdish Pandey R/O Village - Sarana Math, P.O. Bhanpur, P.S. Dinara, Distt. - Rohtas (Sasaram)

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Brij Mohan Kumar Singh, Advocate

For the Respondent/s : Mr.

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CORAM: HONOURABLE THE CHIEF JUSTICE

ORAL JUDGMENT

Date: 04-08-2017

This is an appeal by the owner of the vehicle in question challenging an award passed by the 1st Addl. District Judge-cum-Motor Vehicle Accident Claims Tribunal, Rohtas at Sasaram in M.V. Claim Case No.37/99 on 16.6.2012.

On 15.12.1998 at 6:30 a.m., the deceased, namely, Amit Kumar was travelling in the tractor bearing Regn. No.BR-44-0203 along with his father claimant Yogendra Pandey. He met with an accident and succumbed to the injuries. Due to the death of the deceased, a 16 year old son who was studying in Class 10, the parents filed the claim petition and the claim petition having been



allowed to the tune of Rs.1,14,500 this appeal by the owner of the vehicle in question primarily on two grounds: The first ground was that the accident did not happen at all as the accident was not proved in decreeing the claim. The second ground is that the liability has been imposed upon the owner of the tractor in question, whereas the liability should have been on the Insurance Company and as the Tribunal examined all these factors and allowed the claim, as indicated hereinabove to the tune of Rs.1,14,500/- and as the claimant was found to be travelling in a tractor as a passenger in breach of the policy condition, the principle of pay and recover has been ordered.

Learned counsel for the appellant tried to argue that as the accident has not been proved and it is also not proved that the claimant was travelling in the tractor after payment of fair, the Tribunal has committed an error in awarding the claim.

On going through the original records, and after hearing learned counsel for the parties, it is seen that except for making bald assertion in this regard neither the Insurance Company nor the owner of the vehicle entered the witness box or gave evidence in support of the contention raised in the written statement. On the contrary, the claimant as P.W.1 did prove the accident by creating the F.I.R. which was Exhibit P/1 and the certified copy of the post mortem



report, Exhibit P/2, the accident was found to have been proved and based on the evidence that came on record, the claim petition has been awarded.

In doing so, I am of the considered view that the Tribunal has not committed any error. The appellant herein, who was the owner, having not led any evidence and having not entered the witness box at all, cannot challenge the award on the grounds raised.

The appeal stands dismissed.

(Rajendra Menon, CJ)

K.C.jha/-

AFR/NAFR	NAFR
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