

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Appeal No.648 of 2013

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1. National Insurance Company Ravindra Sarani.
2. National Insurance Company Branch Office Patna.
3. National Insurance Company Branch Office Maharajganj Road Aurangabad
Through Sri Anjani Kumar A.O. Cum and Duly Constituted Attorney National
Insurance Company Ltd. Regional Office 4th Floor Sone Bhawan, B.C. Patel Road,
P.O. G.P.O. P.S. Sachiwalaya, Patna, District Patna.

.... Appellant/s

Versus

1. Jagdish Prasad @ Jagdish Ram S/O Keshwar Ram Resident of Village, P.O. &
P.S. Nagar Utari, District Palamu, Jharkhand.
2. Rajendra Kumar Singh S/O Late Vijay Bahadur Singh Vadaigarh Transport
Daltanganj, District Palamu, Jharkhand.
3. Vadaigarh Transport Daltanganj, District Palamu, Kharkhand.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Ashok Priyadarshi, Advocate
Mr. Abhishek Kumar Singh, Advocate
For the Respondent/s :

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CORAM: HONOURABLE THE CHIEF JUSTICE

ORAL JUDGMENT

Date: 26-07-2017

This is an appeal by the Insurance Company calling in
question tenability of an Award and judgment dated 23rd of April,
2013 passed by the *Ad hoc* Additional District Judge-IV-cum-Motor



Accident Claims Tribunal, Aurangabad in Claim Case No. 02 of 1984/27 of 2010.

2. The only ground canvassed in this appeal is that the Tribunal assessed the compensation in accordance to the Motor Vehicles Act of 1988 whereas, the compensation should have been assessed in accordance to the Motor Vehicles Act of 1939. In support thereof, learned counsel for the Insurance Company invites my attention to a judgment of the Supreme Court in the case of **New India Assurance Co. Ltd. Vs. C.M. Jaya and others-A.I.R. 2002 Supreme Court 651** and a Division Bench judgment of this Court in the case of **Divisional Manager, Oriental Insurance Company Ltd. Vs. Most. Jaishree Verma- 2005 (3) PLJR 738** wherein it has been held that in case the accident takes place prior to 1989 i.e. prior to coming into force of the Act of 1989, the claim petition has to be decided in accordance to the Act of 1939. It is also an admitted position that the Motor Vehicles Act, 1988 came into force on 01.07.1989 and the accident in question took place in the year 1973.

3. That being so, as the learned Tribunal has committed an error in assessing the claim pertaining to an accident of the year 1973 on the basis of the principles contained in the Act of 1988, which is not permissible in view of the judgment of the Supreme Court in the case of **C.M. Jaya** (supra) and the Division Bench



judgment of this Court in the case of **Most. Jaishree Verma** (supra).

4. This appeal is allowed and the matter is remanded back to the Tribunal for reconsideration. The statutory amount deposited be transmitted back to the Tribunal for necessary action.

(Rajendra Menon, CJ)

P.K.P.

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
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Transmission Date	

