IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Appeal No.452 of 2012

==

1. United India Insurance Company Limited, Appeal And Appellant Through The Manager & Constituted Attorney Regional Office, United India Insurance Company Limited, Chanakya Commercial Complex, 'R' Block, Patna

.... Appellant/s

Versus

1. Sonamati Kuer W/O Lt. Umesh Tanto R/O Village- Purhara, P.O.- Badahari, P.S.- Kargahar, Distt.-Rohtas
2. Chandrama Choudhary S/O Sri Natha Choudhary R/O Village- Purhara, P.O.- Barhari, P.S.-Kargahar, Distt.- Rohtas (Owner And Driver Of The Vehicle)
3. General Insurance Corporation, Church Gate, Bombay

.... Respondent/s

==

Appearance :
For the Appellant/s : Mr. Durgesh Kumar Singh, Advocate
For the Respondent/s : Mr. Rajni Kant Singh, Advocate

==

CORAM: HONOURABLE THE CHIEF JUSTICE

ORAL JUDGMENT

Date: 13-07-2017

This is an appeal filed by the Insurance Company under Section 173 of the Motor Vehicles Act, calling in question tenability of a judgment and award dated 1.6.2012 and 18.8.2012 respectively, passed by Shri Keshri Nandan Gupta, Ad hoc Addl. District Judge-I, Rohtas at Sasaram-cum-M.V.A.C.T., Rohtas as Sasaram, in M.V. Claim Case No. 1/93.

Challenging the award of compensation made to the tune of Rs.1,54,000/- along with interest at the rate of 6% *per annum* from the date of filing of this claim petition and granting liberty to recover 50% of the compensation and interest from the owner of the vehicle, this Appeal has been filed by the Insurance Company on account of the fact that as the claimant was travelling in the tractor trailer as a gratuitous passenger, in view of the consistent view and the judgment of the Hon'ble Supreme Court, the award of compensation on the Insurance Company and imposing liability on the Insurance Company is not sustainable.

On a perusal of the entire award and the reasons that weighed with the Tribunal, it is seen that the evidence which came on record indicated that there was some conflicting statements and evidence as to whether the deceased sustained injury because of travelling on the tractor or he sustained injury after he got down from the tractor and when the trailer turned and fell on him after he had alighted from the truck. Taking note of these aspects and various other facts and circumstances, the liability of 50% is imposed on the Insurance Company.

That being the award passed, that also in the year 2012 for an accident that took place in the year 1992, now in the peculiar facts and circumstances of the case, I feel no case is made out for indulgence. However, the legal questions raised by the Insurance Company is required to be appreciated in an appropriate case as and when required.

(Rajendra Menon, CJ)

K.C.jha/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	21.7.2017
Transmission Date	N/A