

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.611 of 2007

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The New India Assurance Co. Ltd, Purnea, represented through Sri Dibakar Bag, Deputy Manager and Constituted attorney of The New India Assurance Co. Ltd, having its Regional Office at 6th and 7th floor, B.S.F.C. Building, Frazer Road, P.S. Kotwali, District-Patna.

... .. Appellant/s

Versus

1. Vibha Kumari, W/o Late Shashi Mohan Thakur.
2. Pallavi.
3. Silpi, both minor daughter of late Shashi Mohan Thakur, Minors represented through their mother and natural guardian Vibha Kumari.
4. Sushila Devi, W/o Suresh Thakur.
All R/o Vill-Kamtaul, P.S. Kamtaul, District-Darbhanga.
5. Chandeshwar Kumar, Son of Moti Prasad, R/o Village-Sanjauli, Sahasgawan P.S. Parihar, Dist-Sitamarhi (Owner of the vehicle bearing its Registration no. BR-06P/707)
6. Deep Lal Sah, S/o Jagannath Sah, R/o Vill-Bela, P.O. and P.S. Bela, Distt-Sitamarhi (Driver of vehicle bearing its registration no. BR-06P/707)

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Anil Kumar
For the Respondent no. 1 to 3	:	Mr. Vinay Ranjan

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CORAM: HONOURABLE MR. JUSTICE PRAKASH CHANDRA JAISWAL

ORAL JUDGMENT

Date : 11-10-2018

Heard learned counsel for the appellant and learned counsel for the respondent nos. 1 to 3 and 5 on this Miscellaneous Appeal.

2. This miscellaneous appeal has been preferred against the judgment dated 14.06.2007 and award



dated 22.06.2007 passed by learned Additional District Judge-Fast Track Court-III-cum-Motor Vehicle Accident Claim Tribunal, Darbhanga in Claim Case no. 36 of 1997 whereby the learned Tribunal allowing the claim petition filed by the claimants, directed the O.P. no. 3 The New India Assurance Company Limited to pay compensation to the tune of Rs. 7,75,000/- along with interest @ 9% per annum from the date of filing of the claim case till its realization to the claimants.

3. Factual matrix of the case is that Claim Case no. 36 of 1997 was filed by the claimants under Section 166 of the M.V. Act for awarding compensation to the tune of Rs. 8,72,500/- on account of death of Shashi Mohan Thakur in motor vehicle accident with the case in succinct that on 30.08.1997, Shashi Mohan Thakur was proceeding to the house of his father-in-law on rickshaw, and as soon as he arrived between Baria and Zero Mile, a passenger bus bearing registration no. B.R.06P-0707 being driven rashly and negligently by its driver dashed the rickshaw from the rear side inflicting serious injury to the deceased, resultantly he died on the spot. The aforesaid accident took place due to rash and negligent driving of the offending vehicle by its driver at the relevant time of accident. Regarding the aforesaid accident,



Ahiyapur P.S. Case no. 173 of 1997 was lodged. The deceased was Manager in the Super Natural Satellite Network and was getting salary of Rs. 6000/- per month from the said vocation.

4. O.P. nos. 1 and 3 put their appearance in the case filed separate written statement. Both parties, adduced ocular as well as documentary evidence in buttress of their case.

5. After hearing the parties and perusing the record, learned Tribunal passed the impugned judgment and award as detailed in the earlier paragraph.

6. Being aggrieved and dissatisfied with the aforesaid judgment and award, the New India Assurance Co. Ltd. has preferred the present appeal.

7. It is submitted by learned counsel for the appellant that the driver of the offending vehicle, namely, Deep Lal Sah was not having valid driving licence at the time of accident as the driving licence no. 1717/75 filed by the claimants was got verified by the appellant, and on verification, it was found to be forged and fake and D.T.O, Patna vide its letter dated 24.02.2000 Ext-B has reported that no such driving licence has been issued by this office in the name of Deep Lal Sah. As the driver of the offending vehicle



was not having valid driving licence at the time of accident, hence, there is utter violation of terms and condition of policy, so the appellant is not liable to pay any compensation to the claimants indemnifying the owner of the offending vehicle.

8. On the other hand, learned counsel for the respondents submitted that the driver of the offending vehicle was Deep Lal Sah S/o Jagarnath Sah and was having valid driving licence bearing no. 835/94 issued by D.T.O. Sitamarhi and not the driving licence bearing no. 1717/75. The appellant has not got verified the aforesaid driving licence rather alleged driving licence bearing no. 1717/75 which is actually not driving licence number rather it is token number and the aforesaid verification report, furnished by the surveyor of the appellant is irrelevant. It is further submitted that the claimants had not furnished the driving licence in the case, so from where the appellant got the aforesaid driving licence number which was verified by it.

9. Learned counsel for the respondent no. 5 has filed the photocopy of the driving licence. On perusal of the aforesaid photocopy of the driving licence, it appears that the driver of the offending vehicle is Deep Lal Sah S/o Jagarnath Sah and driving licence bearing no. 835 of 1994 was issued in



his favour by D.T.O. Sitamarhi while 1717/75 is some other number given in the earlier column of the said driving licence. Said driving licence was issued by the D.T.O. Sitamarhi on 01.12.1994 while the accident is of 30.08.1997 i.e. it was issued preceding to the date of accident and moreover from perusal of record, it appears that the claimants has not filed any driving licence in the case. The appellant appears to have got verified the aforesaid number as adverted in the earlier column of the driving licence number from the D.T.O. Patna and not the actual driving licence bearing no. 835/94 from D.T.O. Sitamarhi. Hence, the aforesaid verification report filed by the appellant appears to be irrelevant. Thus, from perusal of documents and record, it appears that the driver of the offending vehicle was having valid driving licence at the time of accident. Hence, the appellant is not absolved from the liability of the payment of compensation indemnifying the owner of the offending vehicle.

10. In the facts and circumstances of the case, the aforesaid judgment and award passed by the learned Tribunal does not warrant any interference by this Court and is upheld. Accordingly, this miscellaneous appeal is dismissed.

11. Let the statutory amount deposited by the



appellant be sent down in the court below in the name of claimant no. 1 for its adjustment towards payment of compensation.

(Prakash Chandra Jaiswal, J)

rohit/-

AFR/NAFR	NAFR
CAV DATE	N.A.
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