

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Appeal No.364 of 2012

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Gigal Gope S/O Late Sukhdeo Yadav R/O Village- Langurgali Hajiganj, P.S.-
Chowk Patna City, District- Patna

.... Appellant/s

Versus

1. Rajesh Kumar S/O Sri Ramchandra Pandit R/O Mohalla- Damrahighat, P.S.-
Malsalami, District- Patna
2. Umesh Choudhary S/O Rajgeer Choudhary R/O Mohalla- Damarahighat,
District-Patna, Driver Of Truck No. Br.1g/5675

.... Respondent/s

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Appearance:

For the Appellant/s : Mr. Ajay Kumar Thakur, Advocate.
Mr. MD.Imteyaz Ahmad, Advocate.
Mr. Shashank Shekhar, Advocate.

For the Respondent/s : Mr. Ram Kishun Prasad, Advocate.

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CORAM: HONOURABLE MR. JUSTICE PRAKASH CHANDRA

JAISWAL

ORAL JUDGMENT

Date: 04-09-2018

Heard learned counsel for the appellant and learned
counsel for the respondents on this miscellaneous appeal.

2. This miscellaneous appeal has been preferred against the judgment dated 20.07.2011 and award dated 20.10.2011 passed by the 2nd Additional District Judge cum Motor Vehicle Accident Claim Tribunal, Patna in Claim Case No. 64 of 1997 whereby the learned Tribunal allowing the claim petition directed the opposite party no.1- Owner of the offending vehicle to pay compensation to the tune of Rs. 1,00,000/- along with the interest at the rate of 9% per annum from the date of claim application to the claimant.

3. Factual matrix of the case is that claimant Rajesh Kumar filed Claim Case No. 64 of 1997 under Section 166 of the



M.V. Act for awarding compensation to the tune of Rs. 3,00,000/- on account of injury sustained by him in the Motor Vehicle Accident with the case in succinct that on 22.03.1997 at 8 PM, while he was regressing to his home he was dashed by a truck bearing registration no. BR-1Q-5675 at Prasad House resulting into permanent disablement of his right hand thumb and he became unable to work. 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, Malsalami P.S. Case No. 22 of 1997 was instituted. He was working as a mason and was earning Rs. 80/- per day. Aforesaid injury has made adverse impact on his working condition and he is unable to work properly.

4. Opposite party no.1 put his appearance in the case and filed objection. Claimant adduced ocular as well as documentary evidence in buttress of his case.

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

6. Being aggrieved and dissatisfied with the impugned judgment and award, opposite party no.1-Owner of the offending vehicle has preferred this appeal.

7. From perusal of the impugned judgment and award, it appears that learned Tribunal has passed the aforesaid judgment



and award without discussing any head of compensation, multiplier adopted for working out the amount of compensation, permanent disablement if any suffered by the claimant, extent of permanent disablement suffered by the claimant and documents etc. filed by the claimant in buttress of medical expense made by him. Hence, the aforesaid judgment and award is set aside and the case is remitted back to the learned Tribunal to decide it afresh affording opportunity of hearing to the parties in the light of the observation made by me hereinabove.

8. However, learned Tribunal is directed to dispose of the case within three months from the date of receipt/production of a copy of this judgment. Both the parties are directed to appear before the learned Tribunal and extend all sorts of cooperation in disposal of the case within the stipulated period.

9. Accordingly, this appeal stands disposed of.

10. Let the statutory amount deposited by the appellant be returned to him through cheque.

(Prakash Chandra Jaiswal, J)

Mishra/-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	08.09.2018
Transmission Date	08.09.2018

