IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.15802 of 2013

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Amit Singh @ Ajit Singh son of Janardan Singh, resident of village- Bishunpura, Police Station- Sasaram (M), District- Rohtas.

.... Petitioner/s

Versus

1. Ful Kumari Kuer W/o Late Umesh Kumar @ Vikash Kumar, resident of village- Mani, P.O.- Mayari Bazar, Police Station- Nokha, District Rohtas.
2. Sandeep Kumar minor son of Late Vikash Kumar @ Umesh Ram, resident of village- Mani, P.O.- Mayari Bazar, Police Station- Nokha, District Rohtas.
3. Saoani minor daughter of Late Vikash Kumar @ Umesh Ram, resident of village- Mani, P.O.- Mayari Bazar, Police Station- Nokha, District Rohtas.
4. Sachin Kumar minor son of Late Vikash Kumar @ Umesh Ram, resident of village- Mani, P.O.- Mayari Bazar, Police Station- Nokha, District Rohtas.
5. Sudharshan Paswan W/o Dukhdewan Paswan, resident of village- Bararhi Gola, Police Station- Akorhi Gola, District Rohtas.
6. Future General India Insurance Company Ltd. Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Pankaj Kumar Singh, Adv. & Mr. Shekhar Harshvardhan, Adv.
For the Respondent/s	:	M/s Ashok Priyadershi & Jai Prakash, Advs.

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 17-09-2018

Petitioner is defendant in Motor Vehicle Accident Claim Case No. 86 of 2011. He has filed this writ application for quashing the order dated 28.02.2013 passed by 5th Additional District Judge-cum-Chairman, Motor Vehicle Accident Claim Tribunal, Rohtas at Sasaram whereby and whereunder the learned Tribunal allowed the amendment petition filed on behalf of the respondent Insurance Company.

2. Heard learned counsels for the petitioner as well as the respondents and perused the record.

3. It appears that the claimant respondent nos. 1 to 4 filed the aforesaid claim case against the owner and insurer of the vehicle involved in the accident. The owner of the vehicle, who is petitioner before this Court filed his written statement and asserted that the vehicle in question was insured with the respondent no. 6 (Insurance Company) for the period commencing from 15.02.2011 to 14.02.2012. The respondent no. 6 also filed its written statement and admitted that the vehicle was insured under cover note bearing no.A7476809 for the period from 15.02.2011 to 14.02.2012. During pendency of hearing, the Insurance Company filed an amendment petition to amend the date of policy. The said amendment petition was allowed and the period of insurance **i.e.** 15.02.2011 to 14.02.2012 was changed inserting the period from 24.04.2011 to 23.04.2012.

4. The learned counsel for the petitioner submitted that by proposed amendment, the defendant wants to withdraw the admission, which is very crucial in deciding the fate of the case.

5. The learned counsel for the Insurance Company on the other hand submitted that the Insurance Company has filed its written statement on the basis of cover note which was filed by petitioner in the court. The Insurance Company on verification of said cover note, found that the petitioner (owner of the vehicle) has committed fraud and by making some interpolation, has changed the date in the cover note in order to cover the date of accident. The learned counsel in support of his contention has relied on rulings reported in 2007 (1) PLJR 337, 2006 (4) PLJR 262 and (2003) 3 SCC 581. The Hon'ble Apex Court has observed that in case of alleged fraud the Tribunal must entertain an application filed by the aggrieved party under sections 151, 152 and 153 of Code of Civil Procedure.

6. In the case at hand, I find that the matter is at initial stage. The amendment necessitated only after detecting the manipulation of date in the cover note during verification of cover note. The petitioner has not denied the genuineness of cover note rather he has challenged the period of insurance policy. The authenticity and genuineness of said cover note has to be tested by the trial court. The court below considering all these facts has rightly allowed the amendment petition.

7. In view of above discussions, I find no reason to interfere with the impugned order. This writ application being devoid of merit is accordingly dismissed.

(Sanjay Kumar, J)

Mahesh/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	22/09/2018
Transmission Date	N/A