

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.961 of 2019

Chandeshwar Kumar, Son of Late Moti Prasad, Resident of Village- Sanjauli,
P.O.- Sahasgawan, P.S.- Parihar, District- Sitamarhi.

... .. Petitioner/s

Versus

1. General Manager, New India Assurance Company Limited, New India Assurance Building Mahatma Gandhi Road, Fort Mumbai- 400001.
2. Divisional Manager, Patna New India Assurance Company Limited, Divisional Office No.2, Patna.
3. Regional Manager, New India Assurance Company Limited, Regional Office, Frazer Road, Patna.
4. Branch Manager, New India Assurance Company Limited, Siswanath Service Station, N.H.- 31, Purnia- 654301.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Anil Kumar, Advocate
For the Respondent/s : Mr.Sanjay Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 20-08-2019 The petitioner who is the owner of the Bus which met an accident on 20.08.1997 is looking for settlement of his claim towards the damage caused to the vehicle. It is his contention that he had submitted a claim of Rs. 3,32,164/- with the Insurance Company on 17.08.1998 vide Annexure '1' to the writ application but then the same has remained pending.

In order to explain the delay in pursuing the claim, learned counsel has attempted to demonstrate from the pleadings in the writ application that the victim of the accident had filed a claim petition in which he was awarded a sum of Rs. 7,75,000/- against which the Insurance Company had moved



this Court in Miscellaneous Appeal No. 611 of 2007 which was ultimately decided on 11.10.2018.

The grievance of the petitioner is that he had gone to the office of the Ombudsman Insurance also by filing an application on 19.10.2106 but the petitioner has been informed that he had to firstly represent his case in the Grievance Redressal Office of the New India Insurance Company Limited.

Learned counsel for the Insurance Company submits that by no stretch of imagination this writ application may be entertained at this stage 21 years after the accident. It is submitted that now the petitioner is trying to make out a case to claim damages which otherwise has become barred by limitation. In common law if a remedy has become barred by law of limitation, there is no reason why a constitutional court will invoke its extraordinary power to entertain the writ application to entertain a claim for damages.

Having heard learned counsel for the petitioner and Insurance Company, this Court is of the considered opinion that the claim being raised by the petitioner towards damage to the vehicle is altogether a different from that of the claim raised by the victim of the accident and the pendency of the Miscellaneous Appeal arising out of the compensation awarded



to the victim in the Motor Vehicle Accident Case would not extend the period of limitation for the petitioner as the petitioner has his independent cause of action if any.

To this Court, it is evident that the petitioner had maintained a complete silence for about 21 years, not even pursued his claim for damages and at this stage the writ application has been filed for issuance of a writ of Mandamus. This Court would decline to issue any Mandamus at this stage as the writ application suffers from delay and laches. In this connection the judgment of the Hon'ble Division Bench of this Court in the case of **Ram Prakash Singh Vs. State of Bihar & Ors.** reported in **2019 (4) BLJ 865** is relied upon.

The writ application is dismissed.

(Rajeev Ranjan Prasad, J)

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