

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Appeal No.53 of 2019

Abha Thakur, female aged about 44 years, wife of late Mahesh Thakur resident of Village and P.O. and P.S. Lakhnaur, Madhepur, District-Madhubani.

... .. Appellant/s

Versus

1. Md. Alam, male aged not known, son of Md. Isha resident of At P.O. and P.S. Sakri, District- Darbhanga.
2. Md. Eyaz Farooquee, son of Md. Farooque, resident of At P.O. and P.S. Sakri Bazar, District- Darbhanga.
3. The Oriental Insurance Company Ltd. Madhubani Branch, at P.O. and P.S. and District- Madhubani.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Gautam Kumar Kejriwal, Adv
For the Respondent/s : Mr.Sanjay Singh, Adv.

CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT

Date : 13-05-2019

Heard the parties.

This miscellaneous appeal has been filed for partly setting aside judgment and award dated 12.12.2018 passed by Motor Vehicles Accident Claim Tribunal, Madhubani, passed in Claim Case No. 01 of 2001 by which the Tribunal has erroneously granted the interest on the amount of compensation from the date of judgment and Award and not from the date of filing of claim petition.



Briefly stated the facts of the case is that claimants are widow, son and daughters of deceased Mahesh Thakur, who died in a motor accident on 27.10.2000 at about 7:15 P.M., when after taking tea he was returning to his house and on the way a mini truck having registration no. BR-32-4757 dashed against him as a result of which he died. The driver of the vehicle Md. Alam (opposite party no.1) was driving the vehicle in a rash and negligent manner which caused death of Mahesh Thakur and for which a case was also registered in the Police Station under different sections of Indian Penal Code.

Driver, owner and Oriental Insurance Company were made parties in the claim case and on notice Insurance Company appeared and filed its written statement denying the claim of the claimants. Seven witnesses were examined on behalf of claimant and documents were produced by the claimants before the Tribunal which has been marked as Exhibits. Exhibit-1 is the certified copy of order taking cognizance dated 09.11.2001 against the driver Md. Alam under Sections 279, 304(A) of I.P.C., Exhibit- 2 is the chargesheet. Exhibit- 3 is the postmortem report, Exhibit- 4 is F.I.R., Exhibit- 5 is the death certificate and Exhibit- 6 is list



of family members. Insurance company has neither examined any witnesses nor produce any documentary evidence to refute the claim of claimants.

After considering the oral and documentary evidence on record the Tribunal has held that due to rash and negligent driving of the vehicle by the driver Mahesh Thakur suffered serious injuries and died on account of said injuries. The Tribunal has further held that the offending vehicle was insured by the Oriental Insurance Company on the date of accident and as such Insurance Company is liable to indemnify the owner by paying the amount of compensation as assessed by the Tribunal and has directed for payment of Rs. 4,50,000/- to the claimant by the Insurance Company however, the Tribunal has granted simple interest of 8 % per annum from the date of judgment whereas it should be from the date of claim petition, accordingly, the judgment and award of the Tribunal is partly set aside and modified to the extent that 8 % simple interest is to be paid on the compensation amount of Rs. 4,50,000/- from the date of filing of claim case and same to be paid to the claimant within 3 (three) months from the date of receipt/production of a copy of order passed by this Court.



The miscellaneous appeal is allowed to the extent
as indicated above.

(S. Kumar, J)

Rajiv/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	13.06.2019
Transmission Date	NA

