

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.162 of 2003

The National Insurance Company, Branch Manager, Motihari through
the Manager, Sone Bhawan, Birchand Patel Path, Patna.

... .. Appellant/s

Versus

1. Most. Urmila Devi, W/o Late Shambhu Sahni
2. Bali Sahni
3. Manoj Sahni
4. Harendra Sahni
5. Punam Kumari. Respondent No.2 to 4 minor sons and Respondent No.5 minor daughter of late Shambhu Sahni, represented through their Mother respondent No.1. All resident of Village- Chintamanpur, P.O. & P.S.- Pipra, District- East Champaran.Claimants/Respondents.
6. Subodh Kumar Dubey, S/o Shri Jadunath Dubey, R/o Village Danapore Kothi, P.S.- Kanti, District- Muzaffarpur. (Owner of the Bus No.BEE-2827 Tata No.7).
7. Jwala Shah, S/o Jhaboo Lal, R/o Village- Chavtralia, P.S.- Motihari Mufassil, District- East Champaran. (Driver of the vehicle).

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Ashok Priyadarshi, Advocate
For the Respondent/s	:	Mr. Vishwajeet Kumar Mishra, Advocate
For the Respondent No.6:		Mr. Sharda Nand Mishra, Advocate
		Mr. Deepak Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL JUDGMENT

Date : 17-01-2019

1. This appeal under Section 173 of the Motor Vehicles Act, 1988 has been preferred against the judgment and award dated 18.12.2002 passed by the learned 5th Additional District Judge-cum-Motor Accident Claims Tribunal, East Champaran, Motihari in connection with Claim Case No.13 of 1994.
2. By the impugned judgment and award, the Additional Motor Accident Claims Tribunal, Motihari has awarded compensation in favour of the claimants-opposite parties in



Claim Case No.13 of 1994 for death of *Shambhu Sahni*, husband of claimant, *Most. Urmila Devi* and father of other claimants.

3. *Shambhu Sahni* died on 16.12.1993 in a motor accident caused by Tata Maxi bearing registration No.*BEE-2827* on which the deceased was sitting and the vehicle turned turtle, as the driver was fleeing away with vehicle, after causing an earlier accident.
4. Submission of the learned counsel for the appellant, the *National Insurance Company* is that in the first accident caused by the same vehicle, a different Tribunal had awarded compensation against the owner of the vehicle, as the driver had no valid driving license and that order was confirmed up to this Court, even in Letters Patent Appeal.
5. As law is prevailing today, the insurer cannot escape his liability to pay compensation to a third party rather can claim reimbursement in a duly instituted execution proceeding from the owner of the offending vehicle, if a case is made out.
6. Hence, I am not inclined to interfere with the impugned judgment and award. Accordingly, this appeal stands dismissed as devoid of any merit.



7. The statutory amount deposited at the time of filing of this appeal be sent back through cheque in the name of the claimant for payment and adjustment in the filing award amount.

(Birendra Kumar, J)

abhishek/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	22.01.2019
Transmission Date	N.A.

