

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.938 of 2011

Most. Kaili Devi, Wife of Late Ajai Chauhan, Village Parthu Makhdumpur,
P.S. Ekangersarai, District Nalanda, at present resident of Saho Bigha, PS
Ghosi, District Jehanabad.

... .. Appellant/s

Versus

1. The United India Insurance Company Ltd., through its Divisional Manager,
Anurgarh Narain Road, Murarpur, Town Gaya, District Gaya.

... .. Respondent 1st set.

2.Sri Gurucharan Singh, s/o Guru Bachan Singh, c/o Sri Sudhir Kumar Sinha,
behind Temple of Sanjee, Nadarganj, Gaya.

.....Respondent 2nd Set.

3.Sheewan Chauhan, son of late Murat Bind.

4.Sugiya Devi, wife of Sri Sheewan Chauhan.

5.Sonu Kumar.

6.Nirmala Kumar, both son and daughter of Late Ajay Chauhan, residents of
village Parthu(Makhdumpur), PS Ekangersarai, District Nalanda at present
Saho Bigha, P. S Ghosi, District Jehanabad.

7.Deputy Labour Commissioner cum Commissioner, Workmen Compensation
Court, Magadh Range.

.....Respondents 3rd set.

Appearance :

For the Appellant/s	:	Mr. Ramakant Sharma, Sr. Adv, Mr. Rajesh Kumar, Adv,
For the Insurance Co.	:	Mr.Prakash Kumar, Adv
Respondent no. 3 to 6	:	Mr. Santosh Kumar Pandey, Adv

CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT

Date : 06-08-2019

Heard learned counsel for the parties.

2. This miscellaneous appeal has been filed for setting



aside the order dated 20.07.2007, passed by Deputy Labour Commissioner cum Commissioner Workmen Compensation Court, Magadh Division, in CWC No. 38 of 2003, by which the learned court has directed the owner of the vehicle to pay compensation amount and has exempted the Insurance Company from making the payment although the vehicle was insured by the Insurance Company.

3. Briefly stated, the facts of the case is that claimants are widow and children of deceased who was driver of Maruti Van bearing registration no. PV 31 2900 and on 21.04.2003 at about 11:00 pm he was coming from Gaya from the Car and saw some bundles of wheat lying on the road, he stopped the van in order to remove the wheat bundles and in the meanwhile five unknown criminals with pistol surrounded the vehicle and shot the driver (husband of the claimant) as a result of which he died on the spot and criminals started looting the occupants of the van.

4. The claimants have approached under Workmen Compensation Act and have filed their claim case for grant of compensation from the owner as well as insurer of the vehicle. The deceased was employed on monthly wages of Rs. 4000/- and was aged about 28 years.



5. United India Insurance Company has appeared before the Tribunal and has admitted that the vehicle was insured on the date of accident, however, they denied the payment of compensation, as no premium to cover risk and liability of the driver was paid by the employer.

6. Notices were issued to the owner of the vehicle by the Tribunal as well as by this Court, however, he did not appear and case proceeded ex parte against him.

7. The Tribunal by its order dated 20.07.2007, as impugned in this appeal, has found husband of the appellant to be employed as Driver of the vehicle by the employer and was entitled for compensation under the Workmen Compensation Act and it has also been held that on the date of accident, the vehicle was insured with United India Insurance Company Ltd. but has fastened the liability of payment of compensation upon the owner of the vehicle and has absolved the insurance company to make payment of the compensation amount.

8. It is an admitted fact that on the date of accident, the vehicle was insured with the United India Insurance Company Ltd., as such this Court directs the United India Insurance Company Ltd., to pay the compensation amount to the claimants with right to recover the compensation amount so paid from the



owner of the vehicle.

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

10. LCR of this case be returned to the court concerned forthwith.

(S. Kumar, J)

ranjan/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	23.10.2019
Transmission Date	NA

