

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.355 of 2014

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M/s National Insurance Comapny Ltd., Divisional Office, N.H. 31, P.O.+ P.S. +District-Purnea (Insurer of Motor Cycle No. BR-11J-3328. Appearing through Mr. Deepak Kumar Gupta, Son of Late B.P. Guta, at present posted as Assistant Manager, Regional Office, 4th Floor, Sone Bhawan, R-Block, Patna and authorized signatory of M/s National Insurance Company Limited.

... .. Appellant/s

Versus

1. Smt. Hemlata Devi Wife of Late Arbind Singh
2. Sanjiv Kumar Son of Late Arbind Singh
3. Rajiv Kumar Son of Late Arbind Singh All resident of Village-Gangora, P.O.-Rahata Chowk, P.S.-Bihariganj, District-Madhepura, at present residing at Mohalla Newa Lal Chowk, Basant Bihar, P.S.-K-Hat Maranga, District-Purnea.
4. Chandan Kumar Singh son of Late Hira Prasad Singh Resident of Mohalla-Court Station P.S.-K.-Hat, District-Purnea. (Owner of Motor Cycle No.BR-11J-3328.

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Harendra Kumar, Advocate
For the Respondent/s	:	Mr. Raj Kumar, Advocate
		Mr. Vijay Kumar, Advocate
		Mr. Rajesh Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL JUDGMENT

Date : 25-02-2019

There is delay of 18 days in filing of this appeal.

The delay is explained in I.A. No.1910 of 2015. Hence, the delay is condoned.

2. Heard learned counsel for the parties.

3. By the impugned order dated 29.01.2014, passed in Claim Case No.7 of 2013, the learned Adhoc Additional District Judge-cum-Motor Accident Claim Tribunal, Purnea, has awarded interim compensation of Rs.50,000/- under Section 140 of the Motor Vehicles Act, 1988, to the claimant Hemlata Devi, who is wife of deceased Arbind Singh.



4. Contention of the appellant is that Arbind Singh was going on a motorcycle of his nephew Chandan Kumar Singh and Chandan Kumar Singh was also on the motorcycle. Considering the closeness of relationship between the parties, this is not a case of third party accident; rather this is a case of accident of the family members of the insured and no extra premium was paid for personal insurance. Hence, the insurer is not liable as directed by the impugned order.

5. The learned Tribunal shall frame a separate issue whether the deceased was a family member of the owner of the vehicle or he was a third-party and decide the same according to law.

6. With the aforesaid observation, this appeal stands dismissed and appellant is directed to pay the no fault liability as directed by the Tribunal.

7. Let the Registry remit back the statutory amount through cheque in the name of claimant-respondent No.1 and the remaining amount shall be paid by the insurer.

(Birendra Kumar, J)

Mkr./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	27.02.2019
Transmission Date	

