

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.570 of 2014

1. Gulab Yadav Son of Shri Dukhan Yadav Resident of Village - Kalyanpur,
P.O. and P.S. and Dist. - Jamui (Bihar).
2. Kishori Kumar Rawat Son of Late Baij Nath Rawat Resident of Village -
Bihari, P.O. and P.S. and Distt. - Jamui (Bihar).

... .. Appellant/s

Versus

Meena Devi W/o - Jagarnath Yadav Resident of Village - Kalyanpur, P.O. and
P.s. and Distt. - Jamui Bihar.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Umesh Prasad, Adv
For the Respondent/s : Mr.Pankaj Kumar Sinha, Adv

CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT

Date : 28-06-2019

Heard the parties.

2. This miscellaneous appeal has been filed for setting aside the judgment and Award dated 02.08.2014 passed by Ad hoc A.D.J. IV -Cum-Ad hoc Motor Accident Claims Tribunal, Jamui, in claim Case no. 32/2011 by which the learned Tribunal has directed the appellant/owner of the vehicle to pay interim compensation of Rs. 25,000/- to the claimant under Section 140 of M.V. Act, 1988.

3. Briefly stated, the facts of the case is that on



16.07.2011 at 9.30 AM while claimant Meena Devi was going to collect Gobar while Bahadur Yadav son of Gulu Yadav was driving his Mahendra Tractor bearing Registration No. BR-46/5445 with Trailor bearing Registration No. BR-46/5446 in a rash and negligent manner and dashed against the claimant, as such, she sustained grievous injury.

4. In her FIR the claimant/informant has stated that on 16.07.2011 at about 9.30 AM while she was going to collect the Gobar when Bahadur Yadav son of Gulu Yadav was driving his red colour Mahendra Tractor in a rash and negligent manner, in which the electric wire got wrapped in the tractor and she also got caught by said wire and fell on the road and got injured and tractor driver fled away with his tractor.

5. Respondent/claimant had filed Claim Case No. 32/2011 under Section 166 of M.V. Act, 1988 in which she has stated that she sustained injury on 16.07.2011 at about 9.00 AM morning for which Jamui P.S. Case No. 222/2011 dated 16.07.2011 was instituted against the driver of the tractor and has claimed an amount of Rs. 1,69,000/- on account of injury suffered by her.

6. Appellants have filed their written statement in



which they have denied that their vehicle was involved in the accident. Claimant has suffered no injury and due to previous enmity they have been falsely implicated in this case. Even according to FIR there is no direct nexus of injury suffered by the claimant from the tractor of appellant. The injury report is a manufactured document and the claim of compensation is false and incorrect.

7. On the basis of materials available on record, it is very difficult to ascertain if the injury suffered by the claimant has any direct nexus with rash and negligent driving of the appellant and according to claimant herself she suffered injury as she got caught in the electric wire and fell on the road not that the alleged tractor dashed against her.

8. In such circumstances, when the factum of accident from the tractor was doubtful no interim compensation ought to have been granted by the tribunal. It has been submitted by both the parties, that application under Section 166 of M.V. Act is being heard and claim proceeding are on verge of conclusion, as such, the order dated 02.08.2014 granting interim compensation is set aside and tribunal is directed to decide the claims under Section 166 of M.V. Act at the earliest preferably within six months from the



date of receipt/production of a copy of order passed by this Court.

9. The miscellaneous appeal is allowed.

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

(S. Kumar, J)

veena/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	14.08.2019
Transmission Date	N.A.

