

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.373 of 2016

=====

The Branch Manager, The New India Assurance Co. Ltd. , Sasaram through the Chief Regional Manager, Regional Office, New India Assurance Co. Ltd., 6th and 7th Floor, B.S.F.C. Building, Fraser Road, Patna-1.

... .. Appellant/s

Versus

1. Kuwar Thakur son of Ram Ashish Thakur,
2. Kashish Thakur minor son of Kuwar Thakur,
3. Kamal Kumari,
4. Sudhari Kumari,

Respondent Nos.3 and 4 are minor daughter of Kuwar Thakur, 2 and 4 are minor and represented through their natural guardian and father Kuwar Thakur. All R/v. Nawadih, P.S. Indrapuri, District- Rohtas

5. Birendra Singh,

6. Surendra Singh,

Both are sons of late Dayali Singh, R/v. Gopalpur, P.S. Nokha, District- Rohtas.

... .. Respondent/s

=====

Appearance :

For the Appellant/s : Mr.Raj Kumar Singh Vikram, Advocate

For Respondent No.1 to 4: Mr. Rajen Sahay, Advocate

=====

CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL JUDGMENT

Date : 22-01-2019

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

The delay is explained in the petition filed under Section 5 of the Limitation Act vide I.A. No.7038 of 2016. Hence, after hearing the parties, the delay is condoned.

2. With the consent of the parties, this appeal is being disposed of at this stage itself. The New India Assurance Company Ltd. has challenged the Award dated 02.11.2015/16.01.2016 passed in Motor Vehicle Claim Case No.109 of 2013 by 1st Additional District Judge-cum-Motor Vehicle Claim Tribunal, Rohtas at Sasaram, whereby the Tribunal has directed the applicant to pay the awarded compensation to the



dependents of the victim of motor accident. The Award has been challenged on the ground that there was no licence rather fake driving licence was there with the driver who was driving the vehicle. Therefore, liability cannot be fixed against the insurance company.

3. Now the law is well settled that insurer cannot avoid its responsibility to pay the award to the third-party. Hence, the appellant is directed to pay the awarded amount to the respondents i.e., respondent Nos.1 to 4, and thereafter the appellant may recover the same from the owner of the vehicle i.e., respondent Nos.5 and 6, according to law, in view of the judgment of **National Insurance Co. Ltd. V. Challa Bharathamma and Others** reported in (2004) 8 SCC 517 and **Kamla Mangalal Vayani and Others V. United India Insurance Co. Ltd. and Others** reported in (2010) 12 SCC 488.

4. The registry is directed to remit back the amount deposited at the time of filing of the claim case in the name of claimants through cheque for payment to the claimants.

5. With the aforesaid observation, this appeal stands disposed of.

(Birendra Kumar, J)

Mkr./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	28.01.2019
Transmission Date	

