

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.674 of 2013

United India Insurance Company Ltd. Sasaram through Pranay Kumar
Manager cum and Duly Constituted Attorney United India Insurance
Company Ltd Regional Office 3rd Floor Chanakya Complex B.C. Patel Road
P.O. G.P.O., P.S.-Sachiwalaya Patna District-Patna

... (Opp.Party No.1)Appellant

Versus

1. Sumitra Devi W/O Late Uma Shankar Sah(claimant No.1) Resident Of
Village Chandi English, P.O- Natwar, P.S- Sanjhouli, District- Rohtas.
2. Mithilesh Kumar S/O Late Uma Shankar Sah (claimant No.2)Resident Of
Village Chandi English, P.O- Natwar, P.S- Sanjhouli, District- Rohtas.
3. Madhu Kumari D/O Late Uma Shankar Sah (Minor)(claimant No.3)Resident
Of Village Chandi English, P.O- Natwar, P.S- Sanjhouli, District- Rohtas.
4. Chandni Kumari D/O Late Uma Shankar Sah(Minor) (claimant No.4)
Resident Of Village Chandi English, P.O- Natwar, P.S- Sanjhouli, District-
Rohtas.

... Respondent/s

Appearance :

For the Appellant/s : Mr.Ashok Priyadarshi, Adv
For the Respondent/s : Mr.Rajen Sahay, Adv

CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL JUDGMENT

Date : 29-01-2019

Heard learned counsel for the parties.

2. The United India Insurance Company Ltd has
challenged, in this appeal, the award dated 1st May 2013 passed by
learned 1st Additional District Judge-cum-Motor Vehicles Accident
Claims Tribunal, Rohtas at Sasaram in Motor Vehicle Claim Case
No.96 of 2005, whereby claim of the claimants have been allowed
to the extent of Rs.4,89,500/- alongwith 6% interest from the date
of filing of claim petition.

3. Contention of the learned counsel for the appellant
is that Uma Shankar Sah, husband of claimant-Sumitra Devi and



father of other claimants died in a motor vehicle accident occurred on 23.03.2005 while he was himself driving motorcycle bearing Registration No.BR-24C/9560. Submission is that the said motorcycle did not collide with any other vehicle rather due to rash and negligent driving of the deceased, the same met with the accident. Therefore, the deceased was not a 3rd party rather the owner-cum-driver of the vehicle. Hence, the claimants were entitled up to Rs.One Lac only which was the amount insured for personal accident.

4. Learned counsel for the claimant/respondent does not dispute the aforesaid factual position. In *National Insurance Company Ltd Vs. Ashalata Bhowmik and Ors*, reported in *Supreme Today 2018 0 Supreme (SC) 858*, the Hon'ble Supreme Court held that when the accident is caused due to negligence of the owner-cum-driver, wherein the driver died, the insurer shall be liable to the extent of sum assured for personal accident.

5. Considering the aforesaid settled law and the facts of this case, the impugned award is set aside and it is directed that the insurance company shall pay only Rs.One Lac alongwith 8% interest from the date of filing of the claim petition.



6. The statutory amount deposited by the appellant be remitted back to the learned court below in the name of the claimant No.1 for payment and adjustment.

7. Accordingly, this appeal stands allowed.

(Birendra Kumar, J)

Nitesh/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	31.01.2019
Transmission Date	NA

