IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.760 of 2013

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1) The United India Company Limited, Divisional Office, Bhagalpur
2) The United India Insurance Company Limited, Begusarai

Appeal and appellants through the Manger & Constituted Attorney, Regional Office, United India Insurance Company Limited, 3rd Floor, Chanakya Toweers, R Block, Patna

... ... O.P. 3 & 4/Appellants

Versus

1) Birendra Prasad Singh, s/o Uttam Narayan Singh
2) Kalyan Kumar, s/o Birendra Prasad Singh
3) Ashutosh Kumar, s/o Birendra Kumar Singh
4) Vinita Kuamari, W/o Krishna Kumar Singh, D/o Birendra Kumar Singh
5) Soni Kumari, w/o Sri Ranjit Kumar, D/o Birendra Kumar Singh

All the above are resident of village – Sahur, P.S. Suryagardha, Dist. Lakhisarai, Present address all is Mohalla Tokphana Bazar, P.S. Kotwali, Dist, Munger

Claimants/ Respondents

6. Shivani Kumari D/o Ram Lagan Singh, Resident of village Sahur, P.S. Suryagardha, Dist, Lakhisarai (Owner of Jeep)

O.P. 1/ Respondent

7. Gopal Mandal, S/o Sagar Mandal, Resident of village Sahur, P.S. Suryagardha, Dist. Lakhisarai, (Driver of Jeep)

... ... O.P. 2 / Respondent

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Appearance :
For the Appellant/s : Mr.Durgesh Kumar Singh
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT
Date : 18-04-2019

Heard.

Being aggrieved by the judgment dated 13.09.2013 and Award dated 03.10.2013 passed by the Motor Vehicle Accident Claims Tribunal, Munger in Claim Case No.35/2008 allowing the compensation to the claimant, United India Insurance Company Limited has filed this appeal.

Claimant Birendra Prasad Singh and others had filed claim case under Section 166 of M.V. Act for grant of compensation due to accidental death of his wife Ranjana Kumari in a motor accident.

Deceased Ranjana Kumari was a teacher in government school and on 5.4.2008 after obtaining permission from the principal for her treatment, she was going to Patna on Jeep No. BR 53-1744 which turned turtle in mid way as a result of which Ranjana Kumari died on the spot. The owner of the vehicle was also sitting and vehicle was driven by driver Gopal Mandal.

Claimant lodged a criminal case under different sections of I.P.C. giving rise to Suryagardha P.S. Case No.83/08 and after investigation, police found the case to be true and submitted charge-sheet no.152/08 in the court. The postmortem was performed on the dead body of deceased and according to which, cause of death was attributable to motor accident.

Claimant and other dependants of deceased filed a claim case for grant of compensation of Rs.27,71,656/- due to loss of dependency on account of accidental death of deceased due to negligent and rash driving of the vehicle by the driver of the offending vehicle which was insured by United India Insurance Company Limited and vehicle used to run as a passenger/Taxi vehicle. The owner of offending vehicle appeared and filed his written statement, however, the driver did not appear. Appellant - United India Insurance Company Limited also appeared and filed their written statement and contested the case and admitted that on the date of accident, offending vehicle was insured with it and on the basis of pleading of parties, Tribunal framed six issues for adjudication.

In support of claim case, the claimant has examined one witness and has produced seven documentary evidences which have been marked as Ext.1, certified copy of F.I.R., Ext. 2, photocopy of owner book, Ext. 3, photo copy of insurance policy, Ext. 4, photocopy of postmortem report, ext. 5, certified copy of succession certificate Ext. 6 charge-sheet in Suryagardha P.S. Case 83/08 Ext. 7, Pay -Slip.

No oral or documentary evidence has been produced on behalf of appellant - Insurance company and document which were produced were not admissible.

The Tribunal has held on the basis of oral and documentary evidence that accident took place due to rash, reckless and negligent driving by the driver of offending vehicle resulting in death of Ranjana Kumari. The Tribunal has held that on the date of accident, the offending vehicle was insured by the appellant - Insurance Company. The Tribunal has assessed the monthly income of deceased as Rs.12,670/- and her age to be 50 years and after deducting 1/3 as her personal expenses, the Tribunal has assessed loss of dependency per year as Rs.10,136,0/- and applying 13 as multiplier, has assessed just compensation to be Rs.1317680/- and, thereafter, additional compensation has been granted, Rs.2000/- as funeral expenses. Rs.2000/- as loss of estate and Rs.5,000/- as loss of consortium and after deducting Rs.50,000/- paid as interim maintenance has granted Rs.12,76,680/- as compensation payable to claimants.

Appellant - Insurance Company had taken a plea before the Claims Tribunal that claimant did not produce the driving licence of driver as such, it will be presumed that the driver of the offending vehicle had no valid driving licence and that being in violation of terms and conditions of insurance policy appellant-company is not liable to indemnify the owner of offending vehicle from paying the compensation amount.

The Tribunal has held that if there is any violation of terms and conditions of insurance policy and the driver of the offending vehicle was not having a valid driving licence, the insurance company was given liberty to realize the amount of compensation paid by it to the claimant from the owner of offending vehicle and, as such, the interest of appellant - insurance company has already been protected by the Claims Tribunal while directing appellant - insurance company to pay the compensation amount to the claimant as determined by it.

This Court does not find any illegality or irregularity or infirmity or error in the order passed by the Tribunal and, accordingly, present miscellaneous appeal is dismissed.

The statutory amount of Rs.25,000/- which was deposited by the appellant – Insurance Company, a cheque for the said amount of Rs.25,000/- be prepared in the name of the claimant and handed over to its counsel for the onward payment to the claimant. The remaining amount of compensation to be paid to the claimant within three months from the date of receipt/production of a copy of order passed by this Court with up-to-date interest from the date of filing till its payment, if already not paid.

This miscellaneous appeal stands disposed of.

(S. Kumar, J)

Sanjay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	10.06.2019
Transmission Date	NA