

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.480 of 2013

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Kailash Singh, S/O Late Jagdambi Singh, R/O Panhas, P.S. - Muffasil, Distt - Begusarai.

... .. Appellant

Versus

1. Ramnandan Rai, S/O Late Ramdeo Rai
2. Shyama Devi, W/O Ramnandan Rai
3. Vakil Kumar, S/O Ram Nandan Rai
4. Babusaheb Rai, S/O Ram Nandan Rai

All r/o Sikandarpur Rajaura, East Tola, P.S. - Muffasil, Distt - Begusarai.

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Shiopujan Singh, Advocate
		Mr. Mukesh Kumar Singh, Advocate
For the Respondent/s	:	Mr. Narendra Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL JUDGMENT

Date : 19-02-2019

Heard learned counsel for the parties.

2. This miscellaneous appeal has been preferred, under Section 173 of the Motor Vehicles Act, 1988, against the judgment dated 15.09.2010 and award dated 03.05.2011 passed by the learned Additional District Judge-cum-Motor Accident Claim Tribunal, F.T.C.-V, Begusarai in M.A.C.T. Case No. 34 of 2003.

3. The appellant is owner of the bus which is said to be involved in the accident causing death of three persons. The dependents of victim Mantun Rai filed the present claim bearing M.A.C.T. Case No. 34 of 2003. The Tribunal allowed total claim of Rs.2,02,000/- (rupees two lakhs and two thousand) out of that Rs.1,75,000/- (rupees one lakh and seventy five thousand) was to be paid by the owner and remaining Rs.27,000/- (rupees twenty seven thousand) by the driver of the vehicle.



4. The owner has challenged the impugned award on the ground that the matter was heard ex parte against the appellant and he was not allowed opportunity to contest the claim case. His vehicle was not involved in the accident.

5. Perusal of the lower court record would reveal that after publication of notice against the appellant and others in daily news paper the matter was heard ex parte. The impugned order further reveals that different materials including the FIR, the postmortem report etc. as well as submission of charge-sheet were considered for imposing liability against the appellant as appellant is charge sheeted accused in the criminal case lodged for the accident. After substituted service of notice, there is no excuse left in the case to hear submission of the appellant that ex parte decree was not justified. Hence, I am not inclined to interfere with the impugned award. Accordingly, this appeal stands dismissed.

6. I.A. No. 2281 of 2015 for condonation of delay in filing of this appeal also stands disposed of accordingly.

(Birendra Kumar, J)

Kundan/Rajan

AFR/NAFR	N.A.
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