

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.527 of 2016

1.Sadhna Devi daughter of Ram Prakash Yadav.

2.Santosh Yadav s/o Ram Prakash Yadav.

Both are resident of village-Modern Satgram, P.S Koilari Satgram, District Burdwan.

At present resident of village-Maalpur, P.S. Dalsingsarai, District Samastipur.

3.Mantu Kumar s/o Shree Bhagaram Mahto (WUBH 38H 3921 Jeep Driver),
r/o village Khanna P.S. Vidyapati Nagar, District Samastipur.

.. ... Appellant/s

(Opp. Parties-First parties and third party)

Versus

1.Rajdev Thakur s/o Rameshwar Thakur, resident of village Mustaffapur, PO.
Mohamadpur, Sakra, P.S Vibhutipur, District Samastipur.

2.Branch Manager, United Indian Insurance Co. Ltd. Branch.

... ... Respondent/s

Appearance :

For the Appellant/s : Mr.Alok Kumar Sinha, Adv

For the Respondent/s : Mr.Jitendra Narain Sinha, Adv

CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT

Date : 19-06-2019

Heard learned counsel for the parties.

This miscellaneous appeal has been filed for setting aside the judgment dated 31.10.2015 and award dated 05.12.2015 passed by Motor Vehicle Accident Claims Tribunal, Samastipur, in Motor Vehicle Claim Case No. 31 of 2004 by which Tribunal has directed Appellant/owner of the offending vehicle to pay compensation of Rs.1,50,000/- to the claimant who suffered 40% permanent disablement due to accident from vehicle



owned by Appellant.

Briefly stated, the claim of the original claimant is that on 08.09.2003 at about 10:00 p.m claimant along with his brother and villagers were going to their house Mustafapur from Dalsingsarai when a Commander Jeep bearing No. WUB 38H 3921 coming from the side of Kalyanpur and going towards Dalsingsarai and same was being driven in a rash and negligent manner dashed against the bicycle of claimant causing injury to him as a result of which he was injured and became unconscious and Jeep Driver fled away with the jeep.

He was brought to Sub Divisional Hospital, Dalsingsarai, for his treatment and injury found was grievous in nature. Claimant is a Barber and due to injury sustained in the said accident, he became 40 per cent disabled affecting his earning capacity and as such he filed claim petition claiming Rs. 1,50,000/- as compensation from the owner/driver of the offending vehicle.

Notices were issued to opposite parties by the Tribunal but even after valid and proper service of notice, they did not appear and the case was heard and decided *ex parte*.

The insurance company which was made party in this case appeared and filed written statement that the insurance



policy which has been brought on record before the Tribunal is a forged document and thereafter the insurance company was deleted from the memo of claim petition.

In support of his claim case the claimant examined five witnesses and also adduced documentary evidence which have been marked as Exhibits, which included different prescriptions and medical reports which was granted to the claimant/opposite party during treatment by specialized pathological labs. The FIR is Exhibit-7, the certificate of Doctor is Exhibit 8 and different medical prescriptions have been marked as Exhibit-9. All the witnesses are eye witnesses who have supported claim of claimant. A certificate issued by Surgeon cum Chief Medical Officer has been produced in which it has been certified that claimant/opposite party has 40 per cent permanent disablement. The Tribunal has found the age of claimant to be 18 years who has suffered 40 per cent permanent disablement due to accident caused by the offending vehicle owned by appellant and as such has found claimant to be entitled for compensation of Rs. 1,50,000/- and has directed the owner/driver of the offending vehicle and driver to pay Rs. 1,50,000/- as compensation with 6 per cent simple interest to the claimant/ oppsite party from the date of application to the



date of payment and aggrieved by said order the present miscellaneous appeal has been filed by the owner/driver of the offending vehicle on the ground that no notices were served upon and the matter was decided *ex parte*. However, this court finds that after being satisfied that the notices have been properly and effectively served upon the owner and driver of the offending vehicle, the matter was directed to be heard *ex parte* against them. The owner/driver of the offending vehicle has also played fraud upon the Tribunal by producing fake and forged insurance policy certificate at the time of getting his vehicle released and same when produced in the Tribunal by the claimant /opposite party was found to be forged and fabricated.

After hearing learned counsel for the Appellant, this Court does not find any illegality or irregularity or infirmity in the order passed by the Tribunal and accordingly, the miscellaneous appeal is dismissed.

LCR is directed to be sent to the Tribunal forthwith.

(S. Kumar, J)

ranjan/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	09.07.2019
Transmission Date	NA

