

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.435 of 2015

1.Madan Patel.

2.Raju Mahto.

3.Saroj Devi All sons & Daughter of Shushila Devi & Ramashray Roy,
resident of Motijheel, Baishakhi Ram Lane Ward No. 25, PS Town,
Muzaffarpur District Muzaffarpur,

... .. Appellant/s

Versus

1.M/s A. V. Ispat Pvt. Ltd. represented by Binod Kheria at +PO+PS
Agamkuan , District Patna Owner & Incharge of Vehicle Ambassador Car
bearing Reg. N. BR 1F 4011.

2.Ram Kishore Paswan @ Krishna Paswan s/o Mahabir Pawan of Village
Sabha, P) +PS Sakra, District Muzaffarpur, driver of the Vehicle Ambassador
Car Bearing Reg. No. BR 1F 4011.

3.The New India Insurance Company Limited PB No. 11 patna, through the
Divisional Manager, Club Road, Ramana Muzaffarpur, Insurer of the vehicle
Ambassador Car bearing Reg. N. BR 1F 4011.

4.M/s Ghanshyam Hemlata Vidya Mandir Society s/o Sri Hiralal Prasad
Advocate (Advocate) North of Civil Court Arah at +PO+PS Ara, District Ara
(Bhojpur) Owner of the vehicle metador Ambulance & Van Bearing Reg. No.
DL 1A 0682 registered Head Office 8570 Arekshan Road, Paharganj New
Delhi and insured at Ara Branch.

5.The Driver's name and address not known -Driver of the vehicle metador
Ambulance & Van bearing Reg. No. DL 1A 0682.

6.The National Insurance Company Limited Ara Branch, through the
Divisional Manger Motijheel. Muzaffarpur insurer of the vehicle metador
Ambulance & Van Bearing Reg. No. DL 1A 0682 (Respondent no. 1,2 4 and
5 are performa respondents).

... .. Respondent/s



Appearance :

For the Appellant/s : Mr.Bijay Kumar Pandey, Adv & Mr. Neeraj
Nandan, Adv
For the Respondent/s : Mr.Ashok Priyadarshi, Adv

CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT

Date : 19-04-2019

Heard learned counsel for the parties.

2. This miscellaneous appeal has been filed against the order dated 28.04.2015 passed by learned Motor Vehicle Accidents Claim Tribunal, Muzaffarpur in Claim Case No. 165 of 2000, whereby and whereunder, the learned Tribunal has refused to modify the Award dated 11.03.2010 and release compensation amount kept in fixed deposit in favour of Appellants.

3. The appellants are substituted heirs of original claimant late Sushila Devi in whose favour award dated 11.03.2010 was passed for payment of compensation amount of Rs. 62,500/- to be paid by respondent no. 3 (New India Insurance Company Ltd.) and Rs. 62,500/- to be paid by respondent no. 6 (National Insurance Company Ltd.) with 6 per cent simple interest from the date of filing of claim petition and all amounts would be deposited in fixed deposit for five years and monthly interest of which was to be paid to original claimant.

4. Son of original-claimant died in an accident for which



a claim case was filed being Claim Case No. 165 of 2000 by mother of deceased namely Sushila Devi before Motor Vehicle Accident Claims Tribunal, Muzaffarpur, and Tribunal passed an award in favour of Late Sushila Devi with a condition that whole amount would be deposited in fixed deposit for five years and accordingly, the amount was deposited by both insurance companies as directed by the Tribunal, and original claimant was to get monthly interest over the fixed deposit amount.

5. Original claimant Sushila Devi, mother of the deceased as well as appellants died on 05.05.2010 within two months from the date of award and all the appellants who are her sons and daughters were substituted and a joint petition was filed for releasing the whole deposited amount along with interest as per their share.

6. Appellants filed petition before the Motor Vehicle Accident Claims Tribunal, Muzaffarpur, on 17.03.2015 and 13.04.2015, for payment of claim amount which was deposited in the name of original claimant-Sushila Devi as per direction of the Tribunal but same was refused although more than five years had elapsed from the date of award i.e. 11.03.2010.

7. In their petition as enclosed as Annexure-1, it was submitted that original award was passed on 11.03.2010 and



both the Insurance Companies deposited cheques in the name of original-claimant Sushila Devi, however, she died on 05.05.2010, leaving appellants as her legal heirs and representatives who were substituted by the order dated 16.05.2011 and 30.10.2012 passed by the Tribunal. By order dated 13.12.2013 passed by the Tribunal both insurance companies deposited fresh cheques in the name of appellants in their bank account, however, the condition of five years remained as it is, as such they filed a petition for modification of award and removal of said conditions of five years and release the compensation amount kept in fixed deposit in their account.

8. After perusing the order passed by the Motor Vehicle Accident Claims Tribunal, Muzaffarpur, and also in view of the fact that much more than five years have passed from the date of award and appellants have become major, the petitions dated 17.03.2015 and 13.04.2015 filed on behalf of appellants for modifying the award and release of payment to them ought to have been allowed by the Tribunal. The judgment and order passed by Apex Court in case of **General Manager, Kerala State Road Transport Corporation Vs. Sushma Thomas & Ors** since reported in **1994(1) TAC 323**, is applicable in cases of claimants/beneficiaries and any conditions imposed by the



Tribunal remains valid and operative during their lifetime and not to their successors who inherit the amount by succession and no such conditions can be imposed upon them after attaining majority. Once Appellants have been substituted in place of original claimant there was no difficulty for the Tribunal to modify the award and direct release of payment of compensation amount in their favour. Courts can modify the award on account of subsequent happening to subserve the cause of justice.

9. For the reasons as stated above, the order dated 28.04.2015 passed by Motor Vehicle Accident Claims Tribunal, Muzaffarpur is set aside and award dated 11.03.2010, is accordingly modified and Tribunal is directed to release the compensation amount kept as fixed deposit in accounts of appellants within three months from the date of production of a copy of order passed by this Court.

The miscellaneous appeal is allowed.

(S. Kumar, J)

ranjan/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	06.06.2019
Transmission Date	NA

