

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.315 of 2015

1. Anil Kumar Singh, S/o Late Sheobalak Singh
2. Rupam Kumar @ Laddu, S/o Anil Kumar Singh
Both R/o Village + P.O. Baksama, P.S. Goraul (O.P.Kathara), District-
Vaishali.

... .. Appellant/s

Versus

1. Mostt. Sawarmani Devi, W/o Late Rajkishore Singh
2. Dipak Kumar, S/o Late Rajkishore Singh
Both R/o Village + P.O. Baksama, P.S. Goraul (O.P.Kathara), District-
Vaishali.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Rewti Kant Raman, Adv
For the Respondent/s : Mr.Yashraj Bardhan, Adv.

CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT

Date : 14-05-2019

Heard the parties.

2. This miscellaneous appeal has been filed for setting aside the order dated 26.03.2015 passed by Motor Vehicle Accident Claims Tribunal-II, Vaishali at Hajipur passed in Claim Case No. 82 of 2011 under Section 140 of M.V. Act directing appellant to pay a sum of Rs. 50,000/- (fifty thousand) to the claimant as ad interim compensation.

3. Claim case has been filed on behalf of claimant stating therein that Siya Devi died in motor accident due to



rash and negligent driving by appellant no. 2 Rupam Kumar for which Goraul P.S. Case No. 21/11 was instituted against Rupam Kumar rider of motorcycle bearing no. BR31A-8862 of which owner is appellant no. 1 Anil Kumar Singh.

4. Claim petition under section 166 of M.V. Act was filed for grant of compensation due to accidental death of Siya Devi wife of Late Bigan Singh and claimants are legal heirs of deceased. A petition under Section 140 of M.V. Act was filed for grant of interim compensation during pendency of main claim petition (on no fault basis) which was allowed by the Tribunal.

5. F.I.R. was instituted on 18.01.2011 under Sections 279, 377, 338 of Indian Penal Code giving rise to Goraul P.S. Case No. 21/11 (304 (A) of I.P.C. added subsequently after death of informant). On the basis of fardbeyan of Siya Devi who suffered injury and subsequently died. Accident took place on 18.01.2011 and fardbeyan was recorded on 27.01.2011 and injured died on 09.03.2011. Parties are on litigating terms and it has been alleged that no accident ever took place and appellants have been implicated in this case in a concocted case and postmortem report also does not establishes the death on 09.03.2011 was due to injury



received in a motor accident. Different dates of death of deceased has been given in different pending cases before different forums.

6. I.A. No. 7419 of 2018 has been filed on behalf of appellant stating therein that appellant no. 2 has been acquitted by the Trial Court by judgment and order dated 10.03.2017.

7. After hearing the counsel for the parties and going through the order as impugned this court finds that appellants have denied very foundation of claim and have asserted that no such accident ever took place and the case was instituted much after the alleged accident and same is concocted and only to harass appellants as both of them are on litigating terms. The sole accused appellant no.2 has been acquitted by the trial Court in a case arising out of said accident as such this court finds the claim itself being doubtful, the tribunal ought not to have granted interim relief during pendency of claim case under Section 166 of M.V. Act as such the order as impugned is set aside. It has been brought to the notice of this court that claim case under Section 166 of M.V. Act has progressed much ahead as such the Tribunal is directed to conclude the claim case proceedings within 6 (six)



months from the date of receipt/production of a copy of order passed by this court.

8. The miscellaneous appeal stands allowed.

(S. Kumar, J)

Rajiv/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	14.06.2019
Transmission Date	NA

