

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.219 of 2008

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Sonarpati Devi Wife of Ramashray Sahani R/o Village-Sonbarsha, P.O.+P.S.-
Harshidhi, District-East Champaran.

... .. Appellant/Applicant in court below
Versus

1. Dharmendra Kumar Son of Sri Gajendra Prasad Verma, R/o Village-
Chhagaraha, P.O.-Chhapra Bahash, P.S.-Sugauli, District-East Champaran.
- 2.Divisional Manager, the New India Assurance Co. Ltd. Club Road
Muzaffarpur.
- 3.Raj Narayan Yadav S/o Sri Bhagela Yadav R/o Village+P.O.-Lal Saraiya,
P.S.-Majhoulia, District-West Champaran.

... .. Respondent/s

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Appearance :

For the Appellant/s : None
For the Respondent/s : None

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL JUDGMENT

Date : 29-01-2019

No one appears on behalf of the parties.

2. Perused the record.

3. Appellant-Sonarpati Devi had filed Claim Case
No.153 of 2002 under Section 166 of the Motor Vehicles Act,
1988 claiming compensation of Rs.3,27,000/- for death of her
husband-Ramasharay Sahani who died in an accident caused by
the jeep bearing Registration No.BR05P 4316 on 01.05.2002.

4. By the impugned judgment dated 30.01.2008, the
learned Additional District Judge-cum-Motor Vehicle Accident
Claim Tribunal, Muzaffarpur dismissed the claim on the ground
that there is no material to reach to the conclusion regarding
identity of the deceased. The learned Tribunal further noticed



that no document was produced on behalf of the applicant that it was the husband of the applicant who died in the accident.

5. This Court after notice to the respondents by order dated 08.05.2012 called for a copy of the case diary of Sugauli P.S.Case No.70 of 2002 which was registered for the said motor accident.

6. A copy of the case diary is available with the record. The FIR of the road accident was registered against unknown on the statement of local Chaukidar stating therein that when he was coming on foot across N.H.28A he saw that a person badly injured by a motor accident was lying by the side of the road. Thereafter, the victim was taken to hospital for treatment where he died. The case diary further reveals that from the pocket of the victim certain chit of paper was found which showed identity of the victim as Ramasharay Sahani of village-Sonbarsha, P.S.-Harshidhi in the district of East Champaran. Thereafter, Harshidhi police station was informed by the Sugauli police and later on it was confirmed that the dead body was of Ramasharay Sahani, the husband of the appellant. Paragraph-39 of the case diary reveals that the postmortem report which was received by the police was of deceased Ramasharay Sahani. It is evident that the learned Tribunal failed to exercise jurisdiction



vested in it under Section 169 (2) of the Motor Vehicles Act, 1988, whereunder the learned Tribunal is empowered to enforce the discovery and production of any document and material object for just decision in the case. The learned Tribunal could have called for case diary to ascertain whether during investigation, the identity of the dead body was established or not and if it was established the person who had identified the dead body could have been examined. Furthermore, Section 158 sub-section 6 requires the Officer-in-Charge of the police station where the case of motor accident has been registered to send the report to the learned Tribunal as well as to the owner and the owner is also required to produce the certificate of insurance etc in view of the provisions of sub-section 4 of Section 158.

7. If the police would have exercised the said duty in informing to the learned Tribunal, the impugned order could not have been passed.

8. Hence, the impugned order is set aside for the reason that the learned Tribunal has failed to exercise jurisdiction vested in it to come to just decision. The learned Tribunal is directed to proceed according to law and adjudicate the matter preferably within five months.



9. Accordingly, this appeal stands allowed.

(Birendra Kumar, J)

Nitesh/-

AFR/NAFR	NAFR
CAV DATE	NA
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