

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.174 of 2014

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The Oriental Insurance Company Limited through the Branch Manager,
Ramashish Chowk, Hazipur, Vaishali, Appeal and Appellant through the
Deputy Manager & Authorized Signatory, Regional Office, the Oriental
Insurance Company Limited, Pirmohani, Patna.

... .. Appellant/s

Versus

1. Dhana Devi W/O Late Jagdish Rai
2. Tribhuwan Rai S/O Late Jagdish Rai
3. Rajiv Kumar S/O Late Jagdish Rai
4. Balist Rai S/O Late Jagdish Rai
5. Balister Rai S/O Late Jagdish Rai
6. Gurdia Kumari D/O Late Jagdish Rai
7. Kajli Kumari D/O Late Jagdish Rai (Res. 2 - 7 Are Major vide order dated
20.07.2017). All The Above Are Resident Of Village - Jurawanpur Gopalpur,
P.S. Bidupur, District – Vaishali.

... .. Claimants / Respondent/s

8. Arvind Kumar S/O Rajendra Rai
9. Rajoo Rai S/O Rajendra Rai. Both Owners Are Resident Of Village / P.O.-
Bajitpur, P.S. Biddupur, District- Vaishali.
10. Rajoo Rai S/O B.B. Rai. Resident Of Village - Muroutpur, P.O/P.S. - Mahnar,
District – Vaishali.

... .. Respondent/s

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Appearance :

For the Appellant	:	Mr. Durgesh Kumar Singh, Advocate
For the Respondent No.1	:	Mr. Satya Prakash Singh, Advocate
For the Respondent Nos.2 to 7	:	Mr. Mukesh Pd. Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL JUDGMENT

Date : 05-02-2019

Heard learned counsels for the parties.

2. This appeal has been preferred, under Section 173 of
the Motor Vehicle Act, 1988 against the judgment and award
dated 30.11.2013/13.12.2013, respectively passed by the 1st
Motor Accident Claim Tribunal, Hazipur, Vaishali in Claim Case
No.77 of 2003.



3. The appeal is barred by limitation of 10 days. The delay is explained in I.A. No.5432 of 2015. Hence, the delay is condoned.

4. The Oriental Insurance Company Limited has challenged the award of the Tribunal dated 13.12.2013 passed in Claim Case No.77 of 2003, whereby the Tribunal has awarded compensation in favour of the dependents of *Late Jagdish Rai*, a victim of the road accident.

5. The deceased was going on a motorcycle when a *Commandar Jeep* bearing *Registration No.BR-31A/1629* dashed against him rashly and negligently and for that occurrence Bidupur Police Station Case No.42 of 2001 was registered.

6. The appellant has not challenged the quantum of compensation decided by the Tribunal, rather has challenged the validity of the award on the ground that the Tribunal failed to consider that the driver was not having a valid driving license.

7. Further ground is that *Exhibit A* and *Exhibit B* brought on the record were not considered by the Tribunal.

8. *Exhibit A* is an internal investigation report submitted by Investigators of the Oriental Insurance Company Limited. There is nothing in the investigation report to suggest that if the Tribunal would have considered the same, it would



have taken some other view. The registration and insurance of the vehicle is admitted in the investigation report. The only objection is that the driver had no valid license. The driving license of the driver *Raju Rai* was produced as ***Exhibit B***. The said license reveals that the license was only to drive a tractor or heavy goods vehicle. Apparently, not to drive a passenger carrying vehicle.

9. The aforesaid infirmity and violation of terms and conditions of Police may give rise to the claim of the appellant to recover the compensation amount after payment to the claimants according to law, if so advised.

10. With the aforesaid observation, this appeal stands disposed of.

11. Let the statutory amount be remitted through cheque in the name of the claimant, *Dhana Devi*, which shall be adjusted against the final payment of award by the appellant.

(Birendra Kumar, J)

abhishek/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	08.02.2019
Transmission Date	

