

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.352 of 2012

1. Kanchan Kumari W/O Late Pawan Kumar Priyadarshi
 2. Ram Sakhi Kumari M/O Late Pawan Kumar Priyadarshi
 3. Bhagwan Prasad F/O Late Pawan Kumar Priyadarshi
 4. Aman Kumar Minor S/O Late Pawan Kumar Priyadarshi, Under The Guardianship Of His Mother Kanchan Kumari.
All Nos. 1 to 4 R/O Village and P.O.- Bakara, P.S.- Bind, District- Nalanda, Biharsharif
- (Claimants in the court below) Appellant/s
Versus
1. Niranjn Singh, son of Darogi Prasad R/O Govindpur, P.O.- Barhog, P.S.- Bind, District- Nalanda, Biharsharif
(opposite party no.1 in the court below)
 2. The Oriental Insurance Company Ltd., Patna - Ranchi Road Through Branch Manager Biharsharif, District- Nalanda
(opposite party no.2 in the court below) Respondent/s
-

Appearance :

For the Appellant/s : Mr. Sudhir Kumar Raj, Advocate
For the Respondent/s : Mr. Sanjay Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT

Date : 19-06-2019

Heard parties.

2. This miscellaneous appeal has been filed for setting aside the judgment dated 29.10.2011 and Award dated 21.11.2011 passed by Additional and District and Sessions Judge, Fast Track Court – cum - Motor Vehicle Accident Claims Tribunal, Nalanda at Biharsharif passed in 42 /2007 by which the claim application of appellants has been dismissed.

3. Appellants had filed an application for grant of compensation on account of death of husband of appellant no.1 in a motor accident.



4. In the claim petition, it has been stated that on 2.12.2006 the husband of claimant no.1 Pawan Kumar along with Arun Kumar went to Patna and while returning at about 7 p.m. at Didarganj Railway Crossing was dashed by a truck as a result of which, both fell down and died on the spot. Deceased was having an income of Rs.7,000/- per month and claimants were fully dependant upon him. The age of deceased at the time of death was 28 years.

5. An FIR was instituted on the written report of informant Ashutosh Kumar giving rise to Didarganj P.S. Case No.140/06 registered under Sections 279/304 A of IPC and charge-sheet was submitted against the unknown driver who fled away from the place of accident and could not be traced. The accident was caused by the rash and negligent driving of the offending vehicle.

6. Motorcycle upon which the deceased was riding was insured with Oriental Insurance Company, Patna which was comprehensive package insurance and was valid on the date of accident. The owner of the motorcycle was Niranjana Kumar who was opposite party no.1 in the claim case. The Tribunal has dismissed the case of appellants only on the ground that deceased was not the owner of the motorcycle and insurance



was valid for owner of the motorcycle only. The borrower of motorcycle from its owner steps into the shoes of the owner and he is entitled for all the benefits under the package insurance policy which is available to the owner of the vehicle even the pillion rider's risk is also covered in insurance as such, the reasons for rejection of the claim that deceased was not owner of the vehicle as such he was not entitled for compensation is not sustainable in the eye of law and, accordingly, the judgment dated 29.10.2011 and Award dated 21.11.2011 passed by Additional and District and Sessions Judge, Fast Track Court – cum - Motor Vehicle Accident Claims Tribunal, Nalanda at Bihar Sharif passed in 42 /2007 is set aside and the matter is remanded to the Tribunal for its fresh consideration and disposal in accordance with law within six months from date of production / receipt of copy of order passed by this Court.

7. This miscellaneous appeal stands disposed of.

8. Let the L.C.R. be returned forthwith to the court concerned.

Sanjay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	19.07.2019
Transmission Date	NA

(S. Kumar, J)

