

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Miscellaneous Appeal No.521 of 2014**

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Upendra Kumar Singh Son of Jagdish Prasad Singh, Resident of Village -  
Kamdeo Bigha, P.S. - Jehanabad, District- Jehanabad.

... .. Appellant/s

Versus

1. Ragini Devi Wife of Late Alok Kumar
2. Bindeshwari Prasad, Son of Late Rohan Prasad Singh,
3. Aditya Kumar
4. Ayush Kumar, both are minor sons of Late Alok Kumar under the guardianship of their mother, namely, Ragini Devi.
5. Chamali Devi, Wife of Bindeshwari Prasad All are residents of village - Nirpar Dhamapur, P.S.- Ghoshi, District – Jehanabad.
6. Ram Janam Paswan, Son of Musafir Paswan, Resident of Mohalla - Raja Bazar, Jehanabad, P.S. - Jehanabad, District- Jehanabad.

... .. Respondent/s

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**Appearance :**

|                      |   |                                |
|----------------------|---|--------------------------------|
| For the Appellant/s  | : | Mr. Jitendra Prasad Singh, Adv |
| For the Respondent/s | : | Mr. Ajit Narayan Lal, Adv.     |
|                      | : | Mr. Arun Kumar Sinha, Adv.     |
|                      | : | Mr. Amit Narayan, Adv.         |

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**CORAM: HONOURABLE MR. JUSTICE S. KUMAR**

**ORAL JUDGMENT**

**Date : 25-06-2019**

Heard the parties.

2. This miscellaneous appeal has been filed for setting aside the judgment dated 24.07.2014 and award dated 06.08.2014 passed by Ad hoc Additional District Judge-1st-Cum- Motor Vehicle Accident Claims Tribunal, Jehanabad in Claim Case No. 37/10/04/2013.

3. Briefly stated, the facts of the case as disclosed in claim petition is that claimants are widow, children and parents of Alok Kumar who died in a motor accident while he was going to Baina on 15.04.2008 by his motorcycle when one truck bearing No. BR-25-8296G which was being driven in a rash and



negligent manner dashed against the motorcycle and he died on the spot.

4. FIR was instituted giving rise to Ghoshi P.S. Case No. 71/2008 dated 15.04.2008 on fardbeyan of informant Bindeshwari Prasad father of the deceased. The offending vehicle was not insured by any Insurance Company as such, the claim case was filed against the owner and driver of the offending vehicle.

5. Opposite party No. 1/appellant the owner of the offending vehicle appeared before the tribunal and filed his written statement stating therein that accident did not take place due to negligent and rash driving by the driver of the vehicle and there has been undue delay in filing the claim case as the date of occurrence is 15.04.2008 and the claim case has been filed on 04.02.2011. It was further stated that deceased had no valid licence for riding the motorcycle and has also denied his truck to be involved in the accident. There was contributory negligence on the part of deceased. Police has wrongly submitted charge sheet in this case without proper investigation.

6. On the basis of pleadings of parties, six issues were framed by the claims tribunal for its determination. In support of claim case, claimant has examined four witnesses who have



supported the case of claimant whereas opposite party has adduced four witnesses to deny the claim of claimant.

7. The tribunal has held that accident took place on 18.04.2008 at 11.15 AM in which the deceased died due to rash and negligent driving by the driver of the offending vehicle and same is fully corroborated by fardbeyan of informant (Exhibit-2) FIR (Exhibit-3), Charge sheet of Ghoshi P.S. Case No. 71/2008 (Exhibit-4), and postmortem report (Exhibit-1). The monthly salary of deceased was Rs. 8214/- and he was 30 years old at the time of death and has assessed the total compensation amount to be Rs. 11,92,316/- (Rupees eleven lacs ninety two thousand three hundred sixteen only) which is to be paid by the owner of the offending vehicle with simple interest @ 8% per annum from the date of filing of claim case till its realization.

8. After hearing the parties and going through the LCR and other materials available on the record, this Court does not find any merit in this miscellaneous appeal and same is accordingly dismissed.

**(S. Kumar, J)**

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