

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.708 of 2012

National Insurance Co. Ltd. through Divisional Manager, National Insurance Co. Ltd. Arunachal Bhawan, D.O. - 2, P.O. G.P.O., Patna appearing through Mr. Anjani Kumar, Son of Sri Shyama Prasad at Present Posted as Administrative Officer, Regional Office, 4th Floor, Sone Bhawan, R-Block, Patna and Authorised Signatory of M/S National Insurance Company Limited.

... .. Appellant

Versus

1. Guriya Devi, W/o Late Laljee Singh @ Laljee Kumar Singh
 2. Jyoti Kumari, Minor D/o Late Laljee Singh @ Laljee Kumar Singh
 3. Vishwajeet Kumar, Minor Son of Late Laljee Singh @ Laljee Kumar Singh
- Under the legal and Natural Guardianship of their mother namely Guriya Devi (applicant no. 1), All residents of Village - Duna Chapra, P.O. Prasadi English, P.S. + District - Arwal, A/P Subash Singh, Son of Late Tipan Singh, Anishabad, P.S. Gardanibagh, P.O. Anishabad, District – Patna.

... (Applicants)-Respondent 1st Set

- 4.1. Krishna Nandan Singh, Son of Late Alakhdeo Singh
- 4.2. Munni Devi, Wife of Late Arbind Singh
- 4.3. Monu @ Khushbu, Minor Son of Late Arbind Singh
- 4.4. Tannu, Minor Son of Late Arbind Singh, Both the minors appearing through their mother and natural guardian Munni Devi, wife of Late Arbind Singh, All Resident of Village- Duna Chapra, P.O. Prasadi English, P.S.District-Arwal.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Harendra Kumar, Advocate Mr. Kanchan Mala, Advocate Mr. Sanjeev Kumar, Advocate
For the Res. No. 1 to 3	:	Mr. Rajesh Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL JUDGMENT

Date : 01-04-2019

Heard the parties.

2. The National Insurance Company has challenged the
award of the Motor Accident Claims Tribunal, Patna made on 25th



October, 2011 in Claim Case No. 34 of 2006 whereby the claimants-respondent no. 1 to 3 were allowed compensation of Rs.4,41,500/- (four lacs forty one thousand five hundred) due to death of Laljee Singh @ Laljee Kumar Singh.

3. The case and claim of the claimants was that Laljee Singh along with his cousin was going on their Marshall Jeep bearing registration no. BR-1P-8632 on 15.11.2003 along with others. The police investigation of the case bearing Bikram P.S. Case No. 234 of 2003 revealed that one Noor Ahmad and his son had hired the said private jeep whereas some others stated that Noor Ahmad had borrowed the said jeep for his use. On the way, with intent to rob the said jeep Noor Ahmad and others committed murder of the driver of the vehicle, namely, Arvind Kumar as well as of Laljee Singh and while fleeing with the jeep, met with an accident and in that condition, jeep was noticed.

4. Contention of the learned counsel for the appellant is that this was not a case of motor accident, rather a case of murder, therefore, the claimants are not entitled to any compensation under the provisions of the Motor Vehicles Act, 1988. Contention is that the Tribunal has wrongly referred to the evidences in the case diary for coming to the conclusion that, in fact, intentional felony committed in the occurrence was loot of the Marshall vehicle and



murder was just to facilitate the loot of the vehicle. His further contention is that what the claimant could have received as compensation was according to the premium for personal accident paid by the owner.

5. On the other hand, learned counsel for the claimants submits that the deceased was neither owner of the vehicle nor the driver of the vehicle. It has come in the evidence that murder was committed just to commit robbery of the vehicle and when the criminals were fleeing along with the vehicle after committing murder of the driver as well as of Laljee Singh, the vehicle met with an accident which was recovered at some distance from the place of occurrence of murder, hence, this was a clear case of accidental death in course of use of a motor vehicle. In the aforesaid circumstance, the appellant-insurer shall be liable to pay compensation in view of the specific provisions of Section 163-A of the Motor Vehicles Act, 1988. Hence, the award of the Tribunal requires no interference.

6. In the case of **Rita Devi (Smt.) & Ors. Vs. New India Assurance Co. Ltd. & Another** reported in **2001(1) PLJR (SC) 31**, the Hon'ble Supreme Court quoted the judgment in **Nisbet vs. Rayne & Burn (1910) 2 KB 689**, wherein the Court of Appeal held as follows:



“That the murder was an ‘accident’ from the standpoint of the person who suffered from it and that it arose ‘out of’ an employment which involved more than the ordinary risk, and consequently that the widow was entitled to compensation under the Workmen’s Compensation Act, 1906. In this case the Court followed its earlier judgment in the case of Challis vs. London and South Western Rly. Co. (1905) 2 KB 154. In the case of Nisbet the Court also observed that ‘it is contended by the employer that this was not an “accident” within the meaning of the Act, because it was an intentional felonious act which caused the death, and that the word “accident” negatives the idea of intention. In any opinion, this contention ought not to prevail. I think it was an accident from the point of view of Nisbet, and that it makes no difference whether the pistol shot was deliberately fired at Nisbet or whether it was intended for somebody else and not for Nisbet.”

7. In para 10 of the judgment in Rita Devi’s case (**supra**), the Hon’ble Supreme Court held as follows:

“The question, therefore is, can a murder be an accident in any given case? There is no doubt that “murder”, as it is understood, in the common parlance is a felonious act where death is caused with intent and the perpetrators of that act normally have a motive against the victim for such killing. But there are also instances where murder can be by accident on a given set of facts. The difference between a “murder” which is not an accident and a “murder” which is an accident, depends on the proximity of the cause of such murder. In our opinion, if the dominant intention of the Act of felony is to kill any particular person then such



killing is not an accidental murder but is a murder simplicitor, while if the cause of murder or act of murder was originally not intended and the same was caused in furtherance of any other felonious act then such murder is an accidental murder.”

8. In the present case, there is no evidence that the death of Laljee Singh was result of intentional murder, rather the evidences that had come on the record reveals that murder of the two was committed just to facilitate the removal of the vehicle. Therefore, this is a case of accidental murder and, as such, the dependents of the deceased are entitled for compensation under the Motor Vehicles Act, 1988. In **Shivaji Dayanu Patil vs. Vatschala Uttam More** reported in (1991) 3 SCC 530, the Hon’ble Supreme Court while interpreting the provisions of Section 92A of the Motor Vehicles Act, 1939 held that “the provisions of Section 92-A was in the nature of a beneficial legislation enacted with a view to confer the benefit of expeditious payment of a limited amount by way of compensation to the victims of an accident “arising out of the use of a motor vehicle” on the basis of no-fault liability. In the matter of interpretation of a beneficial legislation, the approach of the courts is to adopt a construction which advances the beneficent purpose underlying the enactment in preference to a construction which tends to defeat that purpose.



9. Section 163A of the Motor Vehicles Act, 1988 also provides that the insurer shall be liable to pay in the case of death or permanent disablement due to accident arising out of the use of motor vehicle, as indicated in the Second Schedule, to the legal heirs or the victim, as the case may be.

10. In the present case, the accidental murder was caused during use of the motor vehicle, hence, the insurer has rightly been directed to pay the compensation awarded by the Tribunal. The calculation of compensation as mentioned in second schedule has received great changes after judgment of the Hon'ble Supreme Court in **Smt. Sarla Verma & Ors. Vs. Delhi Transport Corporation & Anr.** reported in **2009(6) SCC 121**. The Tribunal has applied the same. In the result, I do not find any merit in this appeal. Accordingly, it stands dismissed.

11. The statutory amount be remitted back through cheque to the court below in the name of claimant no. 1 Guriya Devi for payment and adjustment against the claim.

(Birendra Kumar, J)

Kundan/-

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