

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.60 of 2013

=====

Divisional Manager, United India Insurance Company Ltd., Muhalla-Suraksha Bhawan, Akharaghat Road, P.S. Town, District- Muzaffarpur
... .. Appellant/s

Versus

1. Anuja Jha W/o. Late Lalan Kumar Jha,
2. Ayush Kumar Jha S/o. Late Lalan Kumar Jha,
3. Piyush Kumar Jha S/o. Late Lalan Kumar Jha,
(No.2 and 3 are minor children of late Lalan Kumar Jha under guardian ship of their mother), All are r/v. Hospital Road, Chapkaiya, P.S. Birta, Birganj, District- Parsa (Nepal), At present Mohalla- Gannipur, P.S. Kazimohammadpur, District- Muzaffarpur.
4. Administrator, BSRT Corporation, Birchandra Patel marg, Patna, District- Patna

... .. Respondent/s

=====

Appearance :

For the Appellant/s : Mr. Ramchandra Lal Das, Advocate
For the Respondent/s : Mr.

=====

CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL JUDGMENT

Date : 07-01-2019

This miscellaneous appeal has been preferred, under Section 173 of the Motor Vehicles Act, 1988, by the sole appellant United India Insurance Company Ltd., against the judgment dated 05.10.2012 and award dated 03.11.2012, passed in Claim Case No.318 of 2017 by the Additional District Judge-I-cum-Motor Vehicle Accident Claims Tribunal, Muzaffarpur.

By the said judgment compensation was allowed against respondent No.4 and the appellant, in favour of respondent Nos.1 to 3 i.e., the wife and children of deceased Lalan Kumar Jha, who died in a motor accident caused by a bus of Bihar State Road Transport Corporation bearing registration No.BR05P-0556 on 10.05.2017.



Heard learned counsel for the appellant as well as learned counsel for respondent No.4, the Administrator, Bihar State Road Transport Corporation.

Submission of the learned counsel for the appellant is that the appellant has already paid compensation to the dependents of the victim third-party. However, there is violation of the mandates of the Act and the Rules by respondent No.4. Therefore, appellant is entitled to be reimbursed with the said compensation amount from respondent No.4 but the Tribunal has not given any such direction in the impugned order.

The entitlement of the insurer to recover the paid amount from the insured in certain circumstances is well settled as well as the forum of claim of such reimbursement is also well stated in the judgment of **National Insurance Co. Ltd. V. Challa Bharathamma and Others** reported in (2004) 8 SCC 517 and **Kamla Mangalal Vayani and Others V. United India Insurance Co. Ltd. and Others** reported in (2010) 12 SCC 488. Therefore, the appellant may take recourse of law.

With the aforesaid observation, this appeal stands disposed of.

Mkr./-

(Birendra Kumar, J)

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	09.01.2019
Transmission Date	09.01.2019

