

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.23593 of 2019

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Oriental Insurance Company Limited through its Chief Regional Manager,
Patna Regional Office- Pirmuhani More, Near Uma Cinema Hall, P O/P S-
Kadam Kuan, Patna, through Mr. Neeraj Kumar, Authorized Signatory,
Regional Office, Oriental Insurance Company Limited, Regional Office,
Pirmuhani More, Near Uma Cinema Hall, P O/ P S- Kadam Kuan, Patna.

... .. Petitioner/s

Versus

1. Sima Devi W/o Late Pappu Mahto @ Pappu Kumar Mahto resident of Village- Saghari, P.O.- Prahladpur, P.S.- Musahri, District- Muzaffarpur. Presently Resident of Magistrate Colony, P.O.- Ashianagar, P.S.- Rajeeb Nagar, District- Patna- 800140.
2. Deepti Kumari D/o late Pappu Mahto @ Pappu Kumar Mahto Respondent no. 2 is a minor and is under the guardianship of mother, respondent no.- 1, resident of Village- Saghari, P.O.- Prahladpur, P.S.- Musahri, District- Muzaffarpur. Presently Resident of Magistrate Colony, P.O.- Ashianagar, P.S.- Rajeeb Nagar, District- Patna- 800140.
3. Ramadhar Prasad son of Hari Shankar Prasad Resident of Khajuria, Ward No. 14, P.O., P.S. and District- Gopalganj, (Owner) PIN- 841505.
4. Amit Kumar son of Rajendra Prasad Resident of Village- Sevapur Tola, P.S.- Majhagarh, District- Gopalganj, PIN- 841428 (Driver).

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Durgesh Kumar Singh, Adv.
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL JUDGMENT

Date : 29-11-2019



The petitioner, which is an Insurance company, has challenged the order dated 08.03.2018 passed by the District Judge-Cum-Motor Vehicle Accident Claim Tribunal, Patna in Claim Case No. 353 of 2016, whereby the petitioner/Insurance company has been directed to pay the Court fee of Rs. 5,145/- at the initial stage of the case.

2. The learned counsel for the petitioner has drawn the attention of this Court to the provision contained in Section 227 of the Bihar Motor Vehicle Rules as well as the judgment of the Division Bench of this Court in Miscellaneous Appeal No. 419 of 2013, wherein the provision of Section 227 of the Bihar Motor Vehicle Rules have been interpreted to mean that the amount of Court fee would be required to be stated in the *Memo* of the claim which shall be recovered from the insurance company/*tortfeasor* on ascertainment of the claim and the amount of compensation which is directed to be ordered. Such payment will be required to be made only on the conclusion of the proceeding.

3. Considering this aspect of the matter, the



order dated 08.03.2018 is set-aside.

4. The Court below is directed to implement the direction in the judgment dated 24.01.2017 passed in Miscellaneous Appeal No. 419 of 2013 and which has consistently been followed in later decisions of this Court.

5. The net impact of the present order would be that the amount of Court fee shall be recoverable from the insurance company, if the claim is substantiated and an order of compensation is passed.

6. The petition stands disposed off accordingly.

(Ashutosh Kumar, J)

Praveen-II/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	04.12.2019
Transmission Date	N/A

