IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.317 of 2020

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1. Narayan Sah, son of Late Doman Sah, Resident of village- Rattichak, P.S.- Kudra, District- Kaimur (Bhabhua) At present village, P.O. and P.S.- Ramgarh, District- Kaimur (Bhabhua).
2. Kamita Kumari, daughter of Late Jawahar Sah, minors through their grand father, natural guardian and next friend i.e. the claimant- petitioner no. 1. Resident of village- Rattichak, P.S.- Kudra, District- Kaimur (Bhabhua) At present village, P.O. and P.S.- Ramgarh, District- Kaimur (Bhabhua).
3. Sandhya Kumari, daughter of Late Jawahar Sah, minors through their grand father, natural guardian and next friend i.e. the claimant- petitioner no. 1. Resident of village- Rattichak, P.S.- Kudra, District- Kaimur (Bhabhua) At present village, P.O. and P.S.- Ramgarh, District- Kaimur (Bhabhua).
4. Krishna Kumar, son of Late Jawahar Sah, minors through their grand father, natural guardian and next friend i.e. the claimant- petitioner no. 1. Resident of village- Rattichak, P.S.- Kudra, District- Kaimur (Bhabhua) At present village, P.O. and P.S.- Ramgarh, District- Kaimur (Bhabhua).

... ... Petitioner/s

Versus

1. Suri Sha Jafar, son of Moharam Ali, Resident of Mohall- Ward No. 1, P.O. and P.S.- Nasriganj, District- Rohtas (owner of the vehicle).
2. The Bajaj Allianz General Insurance Company Limited through the legal Manager, The Bajaj Allianz General Insurance Company Limited, N-A/7, Irrigation Department Employees Co-operative Society, Chitragupta Nagar, Kankarbagh, Patna- 800020 (Insurer of the vehicle).

... ... Respondent/s

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Appearance :

For the Petitioner/s : Mr.Vijay Kumar, Advocate
For the Respondent/s : Mr.Ashok Priyadarshi, Sr. Advocate

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CORAM: HONOURABLE MR. JUSTICE NAWNEET KUMAR PANDEY

ORAL ORDER

2 11-04-2022 The learned counsel for the petitioners is directed to remove all the defects pointed out by the office within one month.

Heard the learned counsel for the petitioners as well as Mr. Ashok Priyadarshi, the learned Senior Counsel for the Bajaj Alliance General Insurance Company Limited.

M.A.C.T. Case No. 17 of 2017 was filed by the present petitioner, Narayan Sah as claimant no. 1 along with his grand children, namely, Kamita Kumari, Sandhya Kumari, Chhoti Kumari and Krishna Kumar for compensation for the death of his son and daughter-in-law, arising out of use of motor vehicle. The Tribunal did not find the petitioner to be dependent on the deceased, as such, he was not granted compensation, but the children as mentioned above, were granted compensation of Rs.9,87,200/- along with 9% *per annum* interest. The principal amount of Rs.9,87,200/- was ordered by the Tribunal to be deposited in four FDRs of equal amount in the names of claimants mentioned above. For execution of that award, Execution Case No. 22 of 2019 was filed. That was referred to the Lok Adalat. In Lok Adalat, there was a compromise between the petitioner and the Insurance Company that all the amount awarded to the claimant nos. 2 to 5 shall be released to the petitioner and the FDR of Rs.1,00,000/- each shall be prepared in the names of claimant nos. 2 to 5 till their becoming major. The Lok Adalat over reached its jurisdiction and did not consider the order of the M.A.C.T.. The learned Executing Court, in its order, has mentioned that it is trite to mention that in the judgment of the Tribunal, petitioner no.1 was not considered as dependent of the deceased, but in the Lok Adalat, the parties to the present execution case have produced a settlement and order wherein it has been decided and all the amount awarded to the claimant nos. 2 to 5 was released to the present petitioner.

The learned executing court has directed that the claimant nos. 2 to 5 have liberty to receive the cheque deposited by the judgment debtor subject to their complying the operative para 34 of the judgment. If the decree holder/claimant nos. 2 to 5 do not accept this direction, the cheque deposited by the judgment debtor/the Insurance Company shall be returned to the judgment debtor after 15 days with direction to it to comply the judgment dated 16.02.2019.

As discussed above, the present petitioner is not entitled to receive the cheque deposited by the Insurance Company and order dated 01.10.2019 of executing court is well reasoned. I don't find that this civil miscellaneous petition requires to be considered. Accordingly, it is dismissed.

Office shall ensure that all defects are removed by the petitioners within the stipulated time mentioned hereinabove, failing which, the matter shall be brought to the notice of this Court.

(Nawneet Kumar Pandey, J)

Mahesh/-

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