

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.430 of 2015

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The United India Insurance Company Ltd. through its Divisional Manager,
U.I.I. Co. Ltd.Muzaffarpur.

... .. Appellant/s

Versus

1. Geeta Devi wife of Late Radheshym Gupta, at Arya Samaj Road, Raxaul,
P.S.+P.S.-Raxaul, District-East Champaran.
2. Bihar State Road Transport Nigam, Government of Bihar, Parivahan
Bhawan, Beer Chand Patel Marg, Patna

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Ashok Kumar, Adv.
For the Respondent/s : Mr. Madhuresh Kumar, Adv.
Mr. Anand Kumar, Adv.

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CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT

14-10-2022 Heard learned counsel for the appellant and learned
counsel for the respondents.

The instant appeal has been preferred against the
judgment dated 8.1.2015 passed in Claim Case no.3/5 of
2008/2014 passed by the learned Motor Vehicle Accident Claim
Tribunal-cum-learned Additional District Judge-12, Motihari
whereby while deciding the petition under section 166 of the
Motor Vehicle Act filed by the claimant, the learned Tribunal
held the claimant to be entitled for compensation to the tune of
Rs. 2.45 lacs including ad interim compensation under section
140 of the M.V. Act from the said insurance company.

It is submitted by learned counsel for the appellant-
insurance Company that the judgment of the learned Tribunal
has been challenged in the instant case on a very limited ground.



It is submitted that in cases of accident where it is found that the vehicle which was involved in the accident was plying without valid permit at the time of accident which is violation of the terms and conditions of the Insurance policy, the amount of compensation may be paid by the insurance company to the claimant but at the same time, the insurance company would recover the same from the owner of the vehicle involved in the accident.

It is submitted by learned counsel for the appellant that from conjoint reading of paragraph nos. 4 and 10 of the judgment under appeal, it would transpire that the bus which met with the accident was plying without permit at the time of accident which is violation of the terms and conditions of the insurance policy. It is further submitted that is the decision of the Hon'ble Supreme Court as referred in paragraph no. 10 of the judgment cited on behalf of the insurance company, the learned Tribunal took into note and observed that there is no dispute regarding payment of amount of compensation by the insurance company to the claimant and recovery of the same from the owner of the bus. Further reliance has been placed on the order dated 9.9.2015 passed in M.A. No.707 of 2013 (The Divisional Manager, United Insurance Company Ltd. versus



Indu Devi and Ors.) and order dated 28.9.2020 passed in M. A. No.706 of 2013 (Divisional Manager, United Insurance Company Ltd. versus Savita Devi & Ors.) to submit that these cases have also been decided by this Court giving similar relief that in case the insurance company pays the amount, the insurance company will be at liberty to realize the amount awarded from the owner of the vehicle which was plying without valid permit.

Heard learned counsel for the appellant and learned counsel for the respondents.

Having heard learned counsel for the parties and having gone through the materials on record including the judgments relied on on behalf of the appellant, this Court disposes of the instant appeal modifying the judgment impugned dated 8.1.2015 to the extent that in view of the fact that the bus which met with the accident was plying without permit at the time of the accident which is in violation of the the terms and conditions of the insurance policy, the amount of compensation directed to be paid by the insurance company to the claimant by judgment dated 8.1.2015 passed by the learned Tribunal, the insurance company will be at liberty to realize the amount paid from the owner of the vehicle.



At this stage, learned counsel for the appellant brings to the knowledge of the Court the order dated 6.7.2022 enclosed with interlocutory application (I.A. No. 1 of 2022) whereby in the Execution Case no.1 of 2015, on account of nonpayment of the awarded compensation, the learned M.V.A.C.T., East Champaran, Motihari has directed the account of the Bank concerned to be seized to the extent of amount of Rs. 5,53,700/- and the Bank has been directed to issue a banker's cheque in the name of the decree holder Rita Devi for Rs.5,53,700/- and deposit it in the Court.

It goes without saying that in case the said amount has been deposited by the Bank in Court, payment shall be made to the decree holder/claimant and the excess amount would be returned in the account of the appellant. In case there is any shortfall, the same will be paid by the appellant in Court. The statutory amount deposited in this Court shall be refunded to the appellant after payment of the compensation amount to the claimant.

The appeal stands disposed of with the above observations and directions.

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(Partha Sarthy, J)

