

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.25 of 2015

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The Branch Manager, The New India Assurance Co. Ltd., Rohtas Branch
Varanasi U.P. Through the Branch Manager, The New India Assurance Co.
Ltd. Branch Office G.T. Road, Sasaram, Rohtas

... .. Appellant/s

Versus

1. Rashid Khatoon and Ors wife of Md. Kalu @ Md. Kalu Khan, Resident of Mohalla- Ansari Mohalla, Usuf Chak Takiya Ward No. 01, Sasaram, Post Office and Police Station Sasaram, District- Rohtas
2. Navin Kumar Morya son of Yogendra Nath Morya, Resident of A 15/1A Bhadau Rajghat, District- Varanasi U.P.
3. Md. Kalu @ Md. Kalu Khan Son of Sadakat Khan, Resident of Mohalla- Ansari Mohalla Usuf Chak Takiya Ward No. 01, Sasaram, Post Office and Police Station Sasaram, District- Rohtas.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Raj Kumar Singh Vikram, Advocate
For the Respondent/s : Mr. Sidhharth Harsh, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL JUDGMENT

Date : 14-12-2022

Heard learned counsel for the appellant and the respondents.

I.A. No.6292 of 2015.

The aforesaid I.A. has been filed for condoning the delay of 89 days in filing the appeal.

Taking into account the averment that has been made in the interlocutory application, the delay of 89 days in filing the



appeal is condoned.

The I.A. No.6292 of 2015 is allowed.

M.A. No.25 of 2015

The aforesaid appeal is directed against the judgment and order dated 12.02.2014 as well as the Award dated 19.07.2014 passed by the learned Ad-hod Additional District Judge, IIrd, -cum- Motor Vehicle Accidents Claims Tribunal, Rohtas at Sasaram in Motor Vehicle Claim Case No.38 of 2012, by which the New India Assurance Company Limited (henceforth for short 'the New India') was directed to pay Rs.4,50,000/- with 6 % interest from the date of filing of the case within a period of two months.

Learned counsel for the appellant after some argument has limited his prayer to the fact that the company is entitled for recovery of the amount that is to be paid to the appellant from the truck owner in view of the fact that the permit that was issued to the truck was for plying it in the State of Uttar Pradesh but actually the accident occurred within the district of Sasaram in the State of Bihar and as such there was violation of the permit issued and thus the violation of the insurance policy too.

The fact remains that the accident occurred in the year



2011, the lady is still awaiting compensation, as informed by the learned counsel for the respondents even after lapse of more than a decade despite the fact that there was no stay of the order dated 19.07.2014.

Such action on the part of the 'New India' is deprecable to say the least. So far as the submission put forward by the learned counsel for 'the New India' is concerned, if the company is of the belief that the terms and conditions of the insurance policy was violated it has every right to pursue legal remedy available under the law of the land for the recovery of the amount that is to be paid to the claimant but that cannot be the reason for not clearing the amount and keeping it pending only on the ground that an appeal has been filed.

'The New India' is directed to pay the entire amount with interest within a period of 60 days from today failing which the respondents shall be entitled to additional cost of Rs.50,000/- as they have been made to wait for eight years to receive the compensation.

It is further granted liberty to pursue legal remedy available to it for any violation of the insurance policy.

The New India will be entitled to the refund of Rs.25,000/- deposited.



The M.A. No.25 of 2015 accordingly stands disposed
of.

(Rajiv Roy, J)

Prakash Narayan/
Ajay

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	15.12.2022
Transmission Date	NA

