

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.935 of 2010

The United India Insurance Company Ltd. Through its Divisional Manager,
Division-I, Times of India Building, Laxmi Apartment, Fraser Road, District-
Patna

... .. Appellant/s

Versus

Anju Kumari, w/o- Late Rajendra Prasad @ Raman
2. Anshu Kumari D/o- Late Rajendra Prasad @ Raman
3. Anisha Kumari, D/o- Late Rajendra Prasad @ Raman (aged about 16 years)
4. Shilpi Kumari, D/o- Late Rajendra Prasad @ Raman (aged about 14 years)
5. Alisha Kumari D/o- Late Rajendra Prasad @ Raman (aged about 7 years)
6. Ankit Kurmar, S/o- Late Rajendra Prasad @ Raman (aged about 5 years)
Claimant no. 1 is wife, Claimant no. 2 to 6 are children of the deceased.
Claimant no. 3 to 6 are minor children. Claimant no. 1 is the legal guardian of
claimant no. 3 to 6 and she has filed the case under her guardianship)
All are Resident of Village+P.O.+P.S.- Rahui, District- Nalanda, At present-
Village- Kebai, P.S.- Shahjahanpur, District- Patna
7. Sunil Kumar Singh, S/o- Ram Kishun Singh, R/o- Village+P.O.-
Chauparan, District- Hazaribagh (Jharkhand) (Owner of the Truck bearing no.
HR-38H-6272)
8. Rabindra Kumar Singh, S/o- Satyadeo Singh, R/o- Village- Jalawar, P.O.-
Raniganj, District- Gaya (Driver of the Truck bearing no. HR-38H-6272)
9. The National Insurance Company Ltd. Through its Divisional Manager,
Division Office-I, Arunachal Building, Exhibition Road Chauraha, District-
Patna (Insurer of the Truck bearing no. HR-38H-6272)
10. Dinesh Kumar, S/o- Girja Singh, R/o- Village+P.S.- Rahui, District-
Nalanda (Owner of Bolero Jeep bearing no. BR-21B-5600)

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Ram Chandra Lal Das, Advocate
For the Respondent/s : Mr. Rajen Sahay, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE

ORAL JUDGMENT

Date : 23-02-2024

Re: I.A. No. 5955 of 2014

The Interlocutory Application has been filed for
condoning the delay in filing the memo of appeal.

2. Having gone through the affidavit, I am satisfied
that there are sufficient grounds shown to condone the delay.



3. As such, I condone the delay in filing the memo of appeal and allow the Interlocutory Application.

Re: M.A. No. 935 of 2010

4. The Insurance Company has filed the above appeal on two grounds, one that the court of the Additional District Judge-VIII, Patna did not have the jurisdiction to try the case. The second ground is that there is contributory negligence on the part of the driver of the Bolero Jeep also which collided with the truck and hence there should be apportionment of the liability cast, on both the 5th Respondent and the 3rd Respondent.

5. The learned District Judge has considered the specific contention of lack of jurisdiction. The Investigating Officer of the United India Insurance Co. Ltd. had gone to Village- Kebai on behalf of the Insurance Company and came to know that no person in the name of Rajendra Prasad is living in that village and further stated that he has also gone to the permanent address of the claimant Anju Kumari at Village- Rahui where he asked one Anju Devi, and was informed that she did not live at Patna and they are resident of Nalanda district. The Investigating Officer was examined as D.W.1. The statement of D.W. 1 is mere hearsay and the villager statement recorded as Exhibit-X/1 has absolutely no value, since the



villager himself has not been examined before court.

6. The claim case admittedly was filed in Patna and the cause title also showed the residents within Patna. The address, as seen from even the appeal memorandum, is at Patna which is as stated in the claim petition. Notice was issued in the above appeal and it was received by the claimants at Patna. There is absolutely no reason why the question of jurisdiction should be held in favour of the Insurance Company.

7. As far as the apportionment of liability, I see from the order itself that 50% was apportioned between the 3rd Respondent and the 5th Respondent in the claim case who are respectively the insurers of the Bolero Jeep and the truck which were involved in the accident. There is absolutely no ground in the appeal filed.

8. The appeal stands dismissed.

9. Interlocutory Application(s), if any, shall stand closed.

(K. Vinod Chandran, CJ)

P.K.P./-

AFR/NAFR	
CAV DATE	
Uploading Date	23.02.2024
Transmission Date	

