

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12071 of 2016

1. Anita Devi Wife of Late Manoj Kumar Sah,
2. Girija Devi Wife of Late Ram Sakal Sah, Both resident of Village P.O.- Gopalpur, P.S.- Nayagaon, District- Saran.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. District Magistrate, Saran.
3. District Certificate Officer, Saran.
4. Sunita Devi, wife of Akhileshwar Singh, resident of Village- Raghapur Dumari, Post Office- Dumari, Bujurg, Police Station- Nayagoan, District- Saran.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Raj Shekhar, Advocate
For the Respondent/s	:	Mr. G.P. Yadav- SC-17
For the State	:	Mr. Raghawanand, GA-11
	:	Mr. Pratik Kumar, AC to GA-11

CORAM: HONOURABLE JUSTICE SMT. G. ANUPAMA CHAKRAVARTHY

ORAL JUDGMENT

Date : 10-09-2024

1. The Writ petition is filed seeking relief to quash the order dated 14.03.2016 as well as the entire proceedings in Certificate Case No. 03 of 2012-13 pending before the District Certificate Officer, Saran.

2. The petitioner Nos. 1 and 2 are wife and mother of late Shree Manoj Kumar Sah, resident of village and P.O. Gopalpur, P.S. Nayagaon, District Saran. The said Manoj Kumar Shah was an employee of Central Reserve Police Force (CRPF) who was the owner of the vehicle which met



with an accident and death minor daughter of the 4th respondent occurred. The 4th Respondent filed M.A.C.T. Case No. 52 of 2000 for claim of compensation on the file of IVth Additional District Judge-cum Motor Vehicle Accident Claim Tribunal, Chapra (Saran).

3. It is specific contention of the Learned counsel for the petitioners that during the pendency of M.A.C.T. Case No. 52 of 2000, the husband of the 1st petitioner i.e. Manoj Kumar Sah died on 21.12.2003 and the said M.A. case was not within the knowledge of the petitioners. Without bringing the petitioners on the record as legal heirs of Manoj Kumar Sah, an award was passed by the Tribunal on 22.08.2003, wherein the Insurance Company was exonerated in paying the compensation as the vehicle involved in the accident did not possess valid insurance at the time of accident. The Tribunal directed Manoj Kumar Sah the owner of the vehicle to pay compensation to 4th respondent. The petitioners came to know about the award passed against Manoj Kumar Sah in claim case No. 52 of 2000 only after receiving notice of 3rd respondent, wherein they were directed to appear in the proceedings of Certificate Case.



4. It is also contended by the Learned counsel for the petitioners that the petitioners preferred a Miscellaneous Application before M.A.C.T. to set aside the ex-parte award which was passed against Manoj Kumar Sah but the same was dismissed for default.

5. It is specific contention of the Learned counsel for the petitioners that in terms of provision under Section 174 of the Motor Vehicle Act, the aggrieved person has to make an application before the Tribunal for the amount and on such application, the Tribunal has to issue a Certificate for the awarded amount to the Collector and the Collector shall proceed to recover the same in the same manner as arrears of land revenue.

6. It is also contended by the Learned counsel for the petitioners that no such Certificate was issued by the Tribunal, as no application was made by the 4th respondent before the Tribunal. In order to support his contentions, the Learned counsel for the petitioners relied on the Order-Sheets of the Tribunal.

7. None appears for the 4th respondent in respect of valid service of notice.



8. A detailed counter affidavit was filed on behalf of respondent Nos. 2 and 3 by Senior Deputy Collector, Chapra (Saran).

9. On perusal of the counter affidavit, it is evident that the minor daughter Soni Kumari aged about 6 years of 4th respondent/ Sunita Devi died on 20.08.1996 in a road accident. Thereafter, the 4th respondent filed a claim case before the Motor Vehicle Tribunal bearing Case No. 52 of 2000 before the Learned District Judge, Saran at Chapra, against husband of the petitioner who was the registered owner of the vehicle involved in the accident as Opposite Party No. 1 and also the Oriental Insurance Company Limited as O.P. No. 2. The vehicle involved in the accident bearing Reg. No. WS11/6860 was registered in the name of Manoj Kumar Sah which was insured by the said insurance company. But during the course of trial O.P. No. 1 could neither produce the original copy of the Insurance Policy nor could give any explanation for non-submission of Original Insurance Policy for which the Tribunal exonerated the Insurance Company. The Tribunal awarded an amount of Rs. 1,12,500/- with an interest @ of 9 % per annum till February 2001 and thereafter



@ 6% per annum till realization of award amount from date of institution of claim case vide order dated 22.08.2003, payable by the husband of the petitioner No. 1.

10. Being aggrieved by the said award, a Miscellaneous Appeal No. 449 of 2003 was preferred before this Court and the same was dismissed on 16.03.2012. Further the compensation award was neither deposited by Manoj Kumar Sah nor by his legal heirs.

11. The Tribunal addressed a letter to the District Certificate Officer, Saran at Chapra bearing Letter No. 416 dated 05.10.2012 with a request to release the award amount with interest from the legal representatives of Manoj Kumar Sah as it has to be paid to the claimant Sunita Devi.

12. Basing on the letter of the Tribunal, the Certificate Case bearing No. 03 of 2012-13 got registered and notices were issued to the petitioners for their appearance before the District Certificate Officer, Saran.

13. Further the counter disclose that on 06.12.2014, the Learned counsel for the opposite party appeared and submitted an application that 40% of the Award Amount i.e. Rs. 45,000/- has only been deposited in the official



NAZARAT through Receipt No. 503456 dated 06.12.2014 and further prayed for stay as rest of the awarded amount was not deposited by the opposite party/ petitioners.

14. On 14.03.2016, bailable warrant was issued against the petitioners to deposit the rest of the Awarded Amount. The counter affidavit further disclose that the Certificate Proceedings have been initiated at the instance of the Tribunal and, therefore, the petitioners have no merits and prayed to dismiss the Writ application.

15. Heard arguments of the Learned counsel for the petitioners as well as the Learned counsel for the respondents.

16. On perusal of the entire records, it is evident that one Manoj Kumar Sah died during the pendency of the M.A.C. Case No. 52 of 2000 in the file of 4th Additional District Judge, Saran.

17. Without bringing the legal heirs i.e. petitioners onto the record, an award has been passed against the dead person directing him to pay the compensation to the 4th respondent.

18. On perusal of Section 174 of the Motor Vehicle, Act, it is evident that if any amount is due from any person



under an award, the claim Tribunal may on an application made to it, by the person entitled for the amount issue a certificate for the amount to the Collector and the Collector shall proceed to recover the same in the manner as an arrears of land revenue.

19. On perusal of the contents of the counter affidavit, it is evident that the Tribunal had addressed a Letter bearing No. 416 dated 05.10.2012 to the District Certificate Officer, Saran at Chapra with a request to release the award amount with interest from the legal representatives of Manoj Kumar Sah.

20. Admittedly, the counter affidavit or any other document relied by the respondents do not disclose that the 4th respondent has made any application before the Tribunal for issuance of certificate or under Section 174 of the Motor Vehicle Act which clearly disclose that an error was committed by the Tribunal in addressing the Letter. Furthermore, the 4th respondent has not contested the matter inspite of receiving notice. It is also clear that she has not made any application before the Tribunal. In the absence of any application, the Tribunal suo-motu has addressed the



Letter which is against the provision of Section 174 of M.A. Act.

21. In view of the aforesaid discussion, the Writ petition is liable to be allowed by setting aside the order dated 14.03.2016 as well as the entire proceeding of Certificate Case No. 03 of 2012-13 pending before the District Certificate Officer, Saran.

22. In result, the Writ application is allowed.

(G. Anupama Chakravarthy, J)

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

