

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.102 of 2017

Branch Manager, United India Insurance Company Ltd. working as R.M. having its Regional Office at Chanakya Commercial Complex, 3rd Floor, R. Block, P.S. Sachiwalaya, Dist Patna Constituted Attorney of the United India Insurance Co. Ltd. Appellant/s

Versus

1. Amola Devi and Ors w/o late Birendra Paswan
2. Sukar Kumari, minor D/o late Birendra Paswan
3. Shankar Paswan, minor s/o late Birendra Paswan
4. Priyanka Kumari, minor D/o late Birendra Paswan, minor sons and daughters are represented through their mother and natural All residents of village Katihi, P.O. Tetrar, P.S. Akorigola, Dist Rohtas.
5. Pramod Kumar Sah s/o Ram Prasad Sah resident of village Amora, P.O. Karvandiya, P.S. Sasaram Dist Rohtas Owner of the vehicle bearing its Registration No. BR 24 G/2396
6. Deo Muni Paswan s/o name not known
7. Dhanichhari Devi w/o Deo Muni Paswan Both residents of village Kaithi, P.O. Tetrar, P.S. Akorigola, Dist Rohtas.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Shailendra Kumar, Adv.
For the Respondent/s : None

**CORAM: HONOURABLE MR. JUSTICE NAWNEET KUMAR
PANDEY**

ORAL ORDER

6 08-04-2024 Heard the learned counsel for the appellant.

2. None appeared on behalf of the respondents.

Re:- **I.A. No. 3276 of 2018.**

3. This interlocutory application has been filed by the appellant for condonation of delay of 15 days in preferring this appeal.

4. For the reasons disclosed in I.A. No. 3276 of 2018, the present interlocutory application is condoned.



5. The appeal is admitted.

6. This appeal has been filed for setting aside the judgment and award dated 17.10.2016 and 30.01.2017 passed by Additional District Judge-VII-cum-M.V. Accident Claim Tribunal, Rohtas at Sasaram in Claim Case No. 189 of 2014, whereby and whereunder the appellant was directed to indemnify the rest compensation amount of Rs. 7,71,775/- with 7% interest from the date of filing of the case.

7. The widow and her minor children as well as the parents of the deceased were claimants in M.V. Claim Case No. 189 of 2014, which was filed for compensation of Rs. 5 lacs with an interest of 12% per annum for death of the deceased, which occurred by an accident due to rashly and negligently driving of the truck, in question.

8. After hearing the parties, the claim petition was allowed vide impugned order and the appellants, Insurance Company was directed to indemnify the loss and injury suffered by the dependents of the deceased by awarding Rs. 7,71,775/- with 7% interest from the date of filing of the case.

9. The sole submission of the appellant is that at the relevant date and time, the ill-fated vehicle was not insured with the appellant. Therefore, the appellant is not liable to pay the



compensation to the dependents of the deceased. He submitted further that at the time of accident, the road permit was not with owner of the vehicle. As such, the company is not liable to indemnify. He also submitted that from perusal of claim petition itself, it appears that the name of owner of the vehicle differs from that which is mentioned in the insurance policy. In claim petition, the name of owner of the vehicle has been mentioned as Pramod Kumar Sah, whereas in insurance policy vehicle is registered in the name of M/S Hari Om Enterprises Prop. Indu Bhushan.

10. In claim petition, it has specifically been averred that the accident took place by truck bearing registration no. BR-24G/2396 and the same number is also mentioned in the insurance policy exhibited as 'A'. It appears that the truck which was involved in the accident, was the same truck as mentioned in the insurance policy. Merely, because there is difference in respect of the name, in claim petition and insurance policy does not absolve the company from indemnifying the risk of the owner.

11. I do not find any merit in this appeal. Accordingly, this appeal is disposed of.

12. If it is found that the owner of the vehicle had



violated the terms and conditions of the policy (including the permit), the appellant shall have right to recover the amount paid by him.

13. Since decretal amount has already been paid as per submission of the learned counsel for the appellant, the statutory amount deposited by the appellant at the time of filing of this appeal shall be refunded to the appellant.

(Nawneet Kumar Pandey, J)

Nirmal/-

U			
---	--	--	--

