

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Miscellaneous Appeal No.535 of 2014**

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The Divisional Manager, National Insurance Company Ltd. Having its Branch Office at Opp. P.W. High School, District- Khagaria- 851204, represented through Sri Arun Kumar working as A.O. and duly constituted attorney of National Insurance Co. Ltd, having its Regional Office at 4<sup>th</sup> floor, Sone Bhawan, P.S.- Sachivalaya, Distt- Patna.

... .. Appellant/s

Versus

1. Sundari Devi, W/o Late Ramashish Singh Aged about 45 years
2. Renu Devi D/o Late Ramashish Singh Aged about 20 years
3. Priyanka Devi D/o Late Ramashish Singh Aged about 18 years
4. Priti Kumari D/o Late Ramashish Singh Aged about 10 years
5. Kajal Kumari D/o Late Ramashish Singh Aged about 14 years, Claimant No. 2 & 3 are 4 & 5 are minor daughters under the Guardianship of there Mother Sundari Devi Next friend. All are R/o Village and P.O. Tetarabad Chandpura, P.S. Khagaria, Gangaur, District Khagaria.
6. Chandan Kumar Patel, S/o Late Dev Narayan Mahto R/o Village Dantola, P.O.+ P.S. District Khagaria.[Owner of Vehicle no. BR-34G-2475 (Tractor) and BR-34G-2710 (Trailer)]
7. Dipak Kumar, son of Satya Narayan Mahto, R/o- Village- Shekhpura, P.O.- Mathurapur, P.S. and Distt- Khagaria [Driver of the vehicle no. BR34G-2475 and BR34G-2710 (Tractor with trailer)]

... .. Respondent/s

with

**Miscellaneous Appeal No. 537 of 2014**

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The Divisional Manager, National Insurance Company Ltd. having its Branch Office at Opp. P.V. High School, District- Khagaria- 851204, represented through Sri Arun Kumar working as A.O. and duly constituted attorney of National Insurance Co. Ltd, having its Regional Office at 4<sup>th</sup> floor, Sone Bhawan, P.S.- Sachivalaya, Distt- Patna.

... .. Appellant/s

Versus

1. Renu Devi wife of Ram Sewak Yadav aged about 40 Yrs.
  2. Ramsewak Yadav son of Bhola Yadav aged about 45 Yrs.
- All are R/O- Village- Madhua, P.O.- Bari Kothiya, P.S.- Muffasil, Distt- Khagaria
3. Chandan Kumar, son of Late Dev Narayan Mahto, R/o- Village- Dantola, P.O.+P.S.+Distt- Khagaria [owner of Vehicle no. BR34G-2475 (Tractor) and BR34G-2710 (Trailer)]



4. Dipak Kumar, son of Satya Narayan Mahto, R/o- Village- Shekhpura, P.O.- Mathurapur, P.S.- Muffasil, Distt- Khagaria [Driver of the vehicle no. BR34G-2475 and BR34G-2710 (Tractor with trailer)

... .. Respondent/s

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**Appearance :**

(In Miscellaneous Appeal No. 535 of 2014)

For the Appellant/s : Mr.Rana Randhir Singh, Advocate  
For the Respondent/s : Mr. Siddhartha Kumar Singh, Advocate  
Mr. Bharat Bhushan, Advocate

(In Miscellaneous Appeal No. 537 of 2014)

For the Appellant/s : Mr.Rana Randhir Singh, Advocate  
For the Respondent/s : Mr. Bharat Bhushan, Advocate  
Mr. Siddhartha Kumar Singh, Advocate

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**CORAM: HONOURABLE THE CHIEF JUSTICE**

**ORAL JUDGMENT**

**Date : 16-02-2024**

Re: I.A. No. 8947 of 2014 (In M.A. No. 535 of 2014)  
I.A. No. 8948 of 2014 (In M.A. No. 537 of 2014)

The Interlocutory Applications have been filed for condoning the delay in filing the memo of appeals.

2. Having gone through the affidavits, 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 appeals and allow the Interlocutory Applications.

Re: M.A. Nos. 535 of 2014 and 537 of 2014

4. The appellant is the Insurance Company and challenges two interim awards passed by the 1<sup>st</sup> Adhoc. Addl. District Judge-cum-Claims Tribunal, Khagaria. As is seen from the records of the case, an accident occurred on 04.12.2012 at about 8.45 A.M. A tractor bearing Registration No. BR34G-



2475 was attached with a trailer bearing Registration No. BR34G-2710. The tractor hit a pedestrian allegedly due to the rash and negligent driving of the driver of the tractor. The pedestrian died at the spot whose legal heirs have filed Claim Case No. 5 of 2013 in which an interim award was passed on 05.02.2014 against which M.A. No. 535 of 2014 is filed. A labourer who was traveling inside the trailer also died when the trailer turned turtle after it hit the pedestrian. The legal heirs of the deceased labourer filed Claim Case No. 3 of 2013 in which an interim award was passed on 17.02.2014 against which M.A. No. 537 of 2014 is filed.

5. The submission of the Insurance Company before the Claims Tribunal was that the tractor was not insured. This fact is admitted by the claimants but it is stated that the trailer was insured.

6. It is to be examined whether the trailer which cannot be independently plied on a road, if attached to a tractor which is not insured, the insurer of the trailer would be liable to indemnify the owner. The contention raised is of violation of policy in so far as the trailer which had an insurance coverage having been pulled by a tractor which did not have any coverage.



7. This Court is of the opinion that this is not a fit case where an interim award could have been granted. The interim awards are set aside, but it is made clear that the observations made herein are not to govern the final adjudication. There has to be evidence led and there should also be consideration of the legal issues before an award is passed. The matter is remanded to the Claims Tribunal, Khagaria.

8. It is submitted that the claim cases are pending only for final argument. Hence, on the final arguments being addressed, the matter should be disposed of within a period of two months from the date of hearing.

9. Both the appeals stand allowed.

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

**(K. Vinod Chandran, CJ)**

P.K.P./-

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