

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.169 of 2016

1. Sabiya Devi W/o Prem Lal Munda @ Muryari, aged about 37 years.
2. Prem Lal Munda @ Muryari, S/o Late Munar Munda, aged about 41 years.
3. Feku Munda Mother Late Runa Devi S/o Mishar Munda, aged about 14 years.
4. Sonu Munda Mother Late Runa Devi S/o Mishar Munda, aged about years.
All resident of Village- Kataiya Tola, Dighri, P.S. Korha, District- Katihar Bihar.

... .. Appellant/s

Versus

1. Baijnath Prasad Yadav Son of Late Kamla Pd. Yadav, R/o Village Dighri, P.S. Korha, District Katihar.
2. Prakash Chandra Yadav Son of Late Vishwa Nath Prasad Yadav, R/O Village Dighri, PS Korha, District- Katihar Bihar Vehicle Driver.
3. The Branch Manager, The Oriental Insurance Co. Ltd Shyama Takies Road, Mangal Bazar, Katihar PO and PS and District Katihar.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Jitendra Kumar Pandey, Advocate.
	:	Mr. Ram Jiban Prasad Singh, Advocate.
For the Respondent/s	:	Mr. Rana Randhir Singh, Advocate.

CORAM: HONOURABLE MR. JUSTICE SUNIL DUTTA MISHRA
ORAL JUDGMENT

Date : 09-07-2024

Heard learned counsel for the appellants as well as the learned counsel for the respondent no.3.

2. This Miscellaneous Appeal has been filed under Section 173 of the Motor Vehicles Act, 1988 (hereinafter referred to as “Act of 1988”) on behalf of the claimants against the judgment and award dated 11.09.2015 and 18.09.2015 respectively passed by the learned A.D.J.-cum-Motor Accident Claim Tribunal, IIIrd Katihar, Bihar (hereinafter referred to as



“Learned Tribunal”) in Claim Case No.52 of 2013 whereby claim petition of the claimant/appellant has been dismissed.

3. The brief facts of this case are that the deceased Runa Devi, who was a labourer alongwith other labourers, was returning home on 27.09.2005 after cutting paddy crop, met with an accident due to rash and negligent driving of a Tractor bearing Registration No. BR 39A 1767, which was being driven by respondent no.2. On the basis of said fact, an F.I.R. bearing Korha P.S. Case No.145 of 2005 dated 28.09.2005 was registered under Sections 279, 337 & 304(A) of the Indian Penal Code against the driver of the offending vehicle (respondent no.2). After investigation, the Police filed charge sheet against the driver of offending vehicle (respondent no.2) vide charge sheet no.222 of 2005 dated 25.11.2005 under the said sections of I.P.C. One Gunja Devi died on spot, Lal Devi died at her home during treatment and others including Runa Devi were injured and were taken to Sadar Hospital, Katihar for treatment. Injured and dependent heirs of deceased filed claim petition vide Claim Case Nos.03 of 2006, 16 of 2007, 21 of 2007, 25 of 2007 and 26 of 2007 which were disposed of granting compensation to them by the learned Tribunal.

4. It is the case of the claimants that Runa Devi



became injured on the spot but during treatment she died on 25.06.2010 at her home.

5. It is further claimed that claimant No.1 is wife of brother of deceased who is a guardian of two minor sons (claimant nos.3 & 4) of deceased, alongwith claimant no.2 who is husband of the deceased filed the claim petition on 08.12.2013 before MACT, Katihar stating that Runa Devi who sustained the injuries in the said accident, ultimately died in course of her treatment. It is stated that deceased Runa Devi, aged about 30 years was earning Rs.86,000/- per year and her son and wife of her brother were dependent on her and they are now on the verge of starvation and claimed Rs.6,02,000/- as compensation amount. Respondent no.1 is owner of offending vehicle whereas respondent no.3, the Oriental Insurance Co. Ltd. is the insurer of the offending vehicle.

6. Respondent nos.1 & 2 appeared in the case and filed written statement and denied that deceased Runa Devi was died due to the said Motor-Accident caused by offending vehicle. Respondent no.3 in its written statement denied the claim of claimant and stated that the occurrence took place on 27.09.2005 and the victim died on 25.06.2010 whereas the claim petition has been filed on 08.12.2013 and also there is no



post-mortem report of deceased and the claimants have filed the claim petition having no merit.

7. After hearing the parties and considering the materials on record, the learned Tribunal held that there is no document to show that deceased sustained grievous injury from offending Tractor causing long treatment and ultimately causing death of deceased. The learned Tribunal hold that claim petition is not maintainable and the claimants are not entitled for any compensation and dismissed the claim petition.

8. Learned counsel for the appellants submits that since the claimants belong to scheduled caste and are working labourers, they could not arrange the bills incurred over purchase of medicines but the court below could not consider the matter, therefore, the impugned order is perverse. It is submitted that the deceased died during treatment on 25.06.2010 and the relatives informed the police but it was told that charge sheet has already been submitted in the case, therefore, there is no source to conduct post-mortem. This fact was also not considered by the court below. The appellants are entitled for compensation under the M.V. Act as the driver of the vehicle was rashly and negligently driving the vehicle due to which the deceased got injuries and during treatment she died. Therefore,



the opposite parties/respondents are fully liable to pay compensation to the claimants/appellants but the court below has failed to appreciate these facts and passed the order impugned.

9. On the other hand learned counsel for the Insurance Company submits that injury report of deceased shows an abrasion 1" x 1" on left knee joint which is simple in nature caused by hard and blunt substance and it is not correct to say that victim Runa Devi died due to the said injury. It is further submitted that husband of Runa Devi had given evidence in other claim cases and had not stated regarding the injury of Runa Devi. The post-mortem of the victim has not been held which shows that it was a natural death which is also clear from her death certificate. Learned counsel further submits that the claimants have not proved their case and the learned Tribunal has rightly passed the judgment which is justified and the same do not deserve any interference by this Court.

10. Having heard the learned counsel for the parties and considering the materials on record, it appears that admittedly the occurrence took place on 27.09.2005 and the victim died on 25.06.2010 at her house having no documents to show that she was under treatment for the injuries caused by the



offending Tractor. The claimants have failed to bring on record any document to show that the deceased died due to Motor-accident caused by offending Tractor. Accordingly, the learned Tribunal has rightly dismissed the claim petition of the claimants which requires no interference by this Court.

11. Accordingly, this Misc. Appeal is liable to be dismissed and hence, stands dismissed.

(Sunil Dutta Mishra, J)

Ritik/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	16.07.2024
Transmission Date	NA

