IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.23 of 2023

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Branch Manager National Insurance Company Limited, Branch-III, Situated at Raja Bazar, Bailey Road, Patna and Divisional manager, Divisional Office, Exhibition Road, Patna through the authorized signatory of the Regional Manager, Regional Office, 4th Floor, Sone Bhawan, Bir Chand Patel Marg, Patna- 1, (Insurer of the Vehichle bearing No. - BR-1P-8978.

... ... Appellant/s

Versus

1. Kamala Devi Wife of Harihar Prasad (Diseased Driver), Resident of Mohalla- Ram Kishan Nagar, Kankarbagh, Patna- 20, P.S.- Kankarbagh, District- Patna.
2. Sunil Kumar Singh Son of Ram Subhak Singh, Resident of Mohalla- Sanjay Nagar, Road No. 2, Postal Park, P.S.- Jakkanpur, District- Patna (Ownerr of the vehicle bearing NO.- BR-1P-8978

... ... Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Gyanendra Kumar Singh, Adv.
		Ms. Mayuri, Adv.
For the Respondent/s	:	Mr. Pratyush, Adv.

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL ORDER

6 27-11-2025 Heard Ms. Mayuri, learned counsel for the appellant and Mr. Pratyush for the respondents.

2. The present application has been preferred for the following relief(s):

> *for setting aside the Judgment dated 23-04-2022 passed in MACT Claim Case No. 90 of 2003 (Kamala Devi & others vs. National Insurance Co. Ltd. & others) by Addl. District & Sess. Judge -XXIV - cum - Motor Accident Claim Tribunal, Patna, arising out of Rail Muzaffarpur P. S. Case No. 42\2003, whereby and where under the*

learned Tribunal has directed appellant/Insurance Company to pay Rs.7,15,120/- with 6% simple interest per annum from the date of the filing of the Claim Case.

3. The appeal relates to an order dated **13.04.2022** passed by the Court of Additional District and Sessions Judge XIV-cum-Motor Accident Claim Tribunal, Patna (henceforth for short 'the Tribunal') in **Claim Case No. 90 of 2003 (CIS No. 90 of 2003) (Kamla Devi vs. Sunil Kumar Singh & Ors.).**

4. The brief facts of the case is/are as follows:

5. The claimant's husband (deceased) jeep bearing Registration No. **BR-1P-8978** was hired by some unknown persons on **16.04.2003** and subsequently, he (Harihar Prasad) was murdered and the aforesaid jeep was looted. This led to **Rail Muzaffarpur P.S. Case No. 42 of 2003** lodged on **20.04.2003** under **Sections 364, 379, 302, 201 & 120B/34 of the IPC.**

6. The vehicle in question was registered with the **National Insurance Company Limited** (henceforth for short '**the Company**') and as such, in the present case, they were put on notice.

7. 'The Tribunal framed following issues:

i. Whether the Claim Case as

framed is maintainable?

ii. Whether the claimant had got valid cause of action for compensation case?

iii. Whether Harihar Prasad died in a use of Motor Vehicle Commander Jeep Bearing Registration No.BR1P8978?

iv. Whether the alleged Commander Jeep Bearing Registration No.BR1P8978 was involved in the alleged accident issued with the O.P. No.2 National Insurance Co. Ltd on the alleged date of accident?

v. Whether the driver of offending Truck was holding valid and effective driving licence and owner was having valid route permit at the time of accident?

vi. Whether the owner and driver have violated the terms & conditions of the insurance policy at the material time?

vii. Whether Claimant is entitled to get compensation if so to what extent?

viii. Whether Claimant is entitled to any relief or relieves?

8. While from the claimant’s side, **AW1- Kamala Devi** and **AW2- Jhalu Devi** were examined, the opposite party no. 2 and 3 chose not to produce any oral or documentary evidence. The exhibits included the copies of the FIR, the post-mortem report as also the photo copy of the insurance policy.

9. The Court took up the matter and found the case to be true. It recorded that the vehicle was registered with 'the Company' for the period **10.09.2002 to 09.09.2003** and thus through Policy no. **170038/31/02/6301630** came to the conclusion that the claimant is entitled to the relief sought for.

10. So far as the driving license part is concerned, 'the Tribunal' came to the conclusion that in absence of production of valid driving license, the company is entitled to right to recovery from the owner, in view of the judgment of the Apex Court in **Parminder Singh Vs. New India Insurance Company Limited & Ors. Reported in 2019 SCC Online SC 802**.

11. 'The Tribunal' thus vide an order dated 23.04.2022 gave direction to pay Rs. 7,15,120/- from the date of filing of the case till its realization with interest.

12. Against the said order dated 23.04.2022, the present appeal.

13. Learned counsel for the appellant made two-fold submissions:

(i) they received the notice for the first time in the year 2019, thus payment of interest from the date of filing was not justified;

> *(ii) despite 'the Tribunal' coming to the conclusion that in absence of valid driving license, there can be recovery from owner in view of* ***Parmindar Singh*** *(supra) order, the same is missing from the concluding part.*

14. Learned counsel representing the claimant-respondents submits that the unfortunate incident took place in the year 2003 when the bread-earner was killed by the accused persons. After much delay, an order came to be passed in the year 2022, despite passage of two decades, she could not get the fruits of the said order. He further submits that the copy of driving license was handed over before 'the Tribunal. The submission is that in any case, if there is any violation, the Insurance Company has the right to recovery from the Insurance Company as recorded above.

15. Further, regarding the order granting interest from the date of payment, learned counsel for the respondent-claimant has taken this Court to the order of the **Hon'ble Apex Court in T.C. John @Yohannan Vs. V.J. Antony and Ors. in Civil Appeal No. 14749 of 2024** with specific reference to paragraph 11 which read as follows:

> *11. At the same time, after having filed the appeal and during the pendency, the*

appellants-claimants should not be made to suffer directing for non-payment of interest, because for such default claimants alone could not be held responsible. Consequently, denial of interest to the appellants for the period between 22.06.2016 to 13.07.2023 as directed is not justified.

16. Having heard the parties and perusing the record, this Court is satisfied that on the basis of materials on record, 'the Tribunal' rightly settled the issue in favour of the claimant.

17. So far as the point raised by the appellant-company that as it got notice only in the year 2019, order granting payment of interest from the date of filing is not justified, having gone through the order-sheet of 'the Tribunal', this Court has taken note of the fact that the claimant filed the case in time in the year 2003. On 13.01.2005, while admitting the case, notices were issued to the Insurance Company. Thereafter, for one reason or other, the case was adjourned by the Court and in between, the Presiding Officer was transferred whereafter, once again notices were issued which according to the Insurance Company was received in the year 2019.

18. This Court has no hesitation in following the line of the **Hon'ble Apex Court in T.C. John @Yohannan** (supra) case inasmuch as the claimant promptly filed the claim case in

the **year 2003** itself as would manifest from the case number. The delay in the issuance of summon/notice and/or disposal of the case cannot be the basis to deny the interest amount from the date of filing of the claim to the claimant. As such, the first contention of the appellant accordingly stands rejected.

19. So far as the second contention is concerned, in view of 'the Tribunal' itself having taken note of the Hon'ble Apex Court's order in **Parmindar Singh** (supra) regarding the principle of recovery should have granted said liberty if the appellant company is able to prove that on the date of incident/accident, no valid driving license was there.

20. In that background, the **M.A. No. 23 of 2023** is disposed of directing the Company to pay the amount by 31st December, 2025. It will have the right to recovery from the owner if it is able to prove the point raised in accordance with law.

21. Further, failure to pay the amount, the interest will go up to 12% per annum from 01.01.2026 and if still the payment is not made by 31.03.2026, the claimant will be entitled to an additional amount of Rs. 25000/- from 'the Company' from 01.04.2026.

22. The statutory amount, if any, has to be returned to

the appellant company.

23. M.A. No. 23 of 2023 is disposed of. Pending I.A. (s), if any, also stands disposed of.

(Rajiv Roy, J)

Vijay Singh/-

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