

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.2031 of 2017**

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Dharmendra Singh Son of Sri Sudarshan Singh, Resident of Village-
Rudalpur, P.O. and P.S.- Jalalpur, District- Saran at Chapra.

... .. Petitioner/s

Versus

1. The Chairman Cum Chief Managing Director, The New India Assurance Company Limited and Ors its Registered and Corporate Office- 87, M.G. Road, Fort Mumbai.
2. The Branch Manager, The New India Assurance Company Limited, Sudarshan Bhawan First Floor, Nagar Palika Chouk, Chapra.
3. Amna Khatoon, Wife of Late Jalil Ahmad,
4. Ahmad Ali,
5. Mohammad Ishmile, Both sons of Jalil Ahmad.
6. Tawassum Khatoon, Daughter of Late Jalil Ahmad, respondent no. 4, 5 & 6 are under the guardianship of their mother nam All Resident of Village- Dhangaha Tole Dhanupur, P.O.- Dhangarha, P.S.- Braniyapur, District- Saran at Chapra.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Jeetendra Narayan, Advocate
For the Respondent/s : Mr.Bimlesh Kumar Jha, Advocate

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**CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT**

Date : 25-07-2025

Heard learned counsel for the parties.

02. The petitioner is aggrieved by the order dated 25.07.2017 passed by the learned 2nd Additional District Judge- cum- Motor Vehicle Accident Claims Tribunal, Saran in Misc. Case No. 02 of 2008 arising out of Claim Case No. 76 of 2003 whereby and whereunder the application dated 25.07.2017 by the petitioner has been rejected.

03. Learned counsel for the petitioner submits that



Claim Case No. 76 of 2003 was filed by one Amna Khatoon and her heirs before learned Motor Accident Claim Tribunal, Saran at Chapra for compensation amount of Rs.4,48,000/- for accidental death of one Jalil Ahmad which took place on 02.07.2003. The accident was caused by a vehicle bearing Registration No. BR-04A-8426 owned by the petitioner. The said claim case proceeded *ex parte* and thereafter on 14.10.2004, issues have been framed. The learned Claims Tribunal found the claimants entitled for a sum of Rs.4,17,500/- and the vehicle in accident was insured with respondents. However, it has been urged before the learned Tribunal that at the time of accident that the owner was not having valid permit and the learned Tribunal observed that if the owner has furnished false permit then respondents would be entitled to recover the compensation amount paid by the respondents to the claimants from owner of the vehicle. The said Judgment was passed on 25.08.2007 and the Award had been passed for claim amount of Rs.4,48,000/- vide order dated 05.09.2007/ 11.09.2007 by the learned F.T.C-IV, Saran in Claim Case No. 76 of 2003.

04. On 16.09.2008 the respondent no. 2 filed a Misc. Case No. 02 of 2008 before the learned Additional District



Judge, Fast Tract-IV, Saran at Chapra against the petitioner for recovery of compensation amount paid by the respondents to the claimants in M.A.C.T. Case No. 76 of 2003 for an amount of Rs.5,04,185/- with interest under Section 140 and 166 of the Motor Vehicle Act. However prayer was made that if the petitioner fails to comply the order of the Court, requisition may be sent to the Collector to recover the said amount. Learned counsel for the petitioner submits that without due service of notice to the petitioner regarding Misc. Case No. 02 of 2008, the learned Tribunal/Court passed the order on 15.06.2017 for institution of certificate case against the petitioner for recovery of amount paid to the claimant by the respondents. Coming to know about the said order dated 15.06.2017, the petitioner filed objection/show cause on 25.07.2017 before the Motor Accident Claims Tribunal, Saran submitting that due to mistake of the Advocate Clerk route permit of the concerned vehicle could not be filed and for this reason, the Tribunal passed the Judgment on 25.08.2007 holding that the route permit available on record was not issued by RTA, Chapra and hence the insurance company was entitled to recover the compensation amount paid to the claimant from the owner of the vehicle. Learned counsel further submits that on the same date i.e., 25.07.2017, the



learned tribunal dismissed the petition of the petitioner and the said order is under challenge before this Court.

05. Learned counsel further submits that the petition of the petitioner was dismissed in mechanical manner without appreciating the material available on record. By the impugned order the learned Tribunal also affirmed its earlier order dated 15.06.2017 whereby the directions were issued for institution of certificate case against the petitioner. Learned counsel further submits that the learned Tribunal has not appreciated that the petitioner had no knowledge about any process of the Court in Misc. Case No. 02 of 2008 as no process has been served on this petitioner. The learned Claims Tribunal did not appreciate that after coming to know about the institution of Misc. Case No. 02 of 2008, the petitioner filed objection/showcause with genuine route permit and therefore, the order directing the institution of certificate case for recovery of the claim amount paid to the claimants by the respondents was not proper and legal. The petitioner has been holding a valid route permit and therefore there was no occasion for the respondents/insurance company for not making payment to the claimant being the insurer of the vehicle in question and there was no liability of the petitioner for the same. Therefore, the impugned order is not sustainable



and the same needs to be set aside.

06. On the other hand, learned counsel counsel appearing on behalf of the respondent nos. 1 and 2 submits that there is no infirmity in the impugned order and it is completely valid order. Learned counsel further submits that in Claim Case No. 76 of 2003, the petitioner filed a route permit but the same was found to be bogus. The learned Claims Tribunal considered this fact. Further the petitioner did not challenge the order of the Claims Tribunal whereby it has been held that if the owner has filed a false permit, the insurance company would be liable to recover the amount of compensation paid to the claimants. Learned counsel further submits that in Misc. Case No. 02 of 2008, the petitioner was duly served and this fact was taken note of by the learned Claims Tribunal. Final orders have been passed in Misc. Case No. 02 of 2008 on 15.06.2017 but the petitioner did not challenge the said order and filed a frivolous application in the learned Claims Tribunal for setting aside the proceeding in Misc. Case and reviewing its earlier orders. Therefore rejection of the petition dated 25.07.2017 of the petitioner is correct and proper and needs no interference by this Court.

07. I have given my thoughtful consideration to the



rival submission of the parties and perused the record. From the record it transpires that the petitioner who is owner of the offending vehicle participated in the Claims proceeding as route permit has been filed on behalf of the petitioner which was subsequently found to be bogus. When the petitioner was having knowledge of the Judgment and Award of the Claims Tribunal, if he was aggrieved by the same, he was supposed to challenge the same by filing an appeal but the petitioner did not take any such steps. It further transpires that when Misc. Case No. 02 of 2008 has been filed and notices were issued, the petitioner did not appear before the Court concerned and did not file any reply. Only when the final orders have been passed, the petitioner came before the learned Claims Tribunal making prayer to quash the order dated 15.06.2017 as well as 25.07.2017. The petitioner did not take any steps to set aside the proceeding in Miscellaneous Case No. 02 of 2008. Rather he chose to enter appearance only after final orders have been passed and Court had become *functus officio* for entertaining any application or quashing/setting aside any previous orders including the final orders. Moreover, when the petitioner did not challenge the Judgment and Award of Claim Case No. 76 of 2003, he is prevented from raising any issues with regard to merits of the



said Judgment and Award in Claim Case No. 76 of 2003. When the document filed by the petitioner was held to be false, the proper remedy to the petitioner was to challenge the said finding but the petitioner did not make any such effort.

08. In the light of the aforesaid discussion, I do not find any infirmity in the impugned order dated 25.07.2017 and hence the same is affirmed.

09. Accordingly, finding the present petition devoid of any merits the same is dismissed.

(Arun Kumar Jha, J)

Anuradha/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	29.07.2025
Transmission Date	N/A

