IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.357 of 2022

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Branch Manager, National Insurance Company Ltd., Madhubani through Sri Rana Ranjan A.O. and Duly Authorized Signatory of National Insurance Company Ltd., Patna Regional Office, 4th Floor, Sone Bhawan, Bir Chand Patel Road, P.O. and P.S.-Sachiwalaya Patna, District-Patna.

... ... Appellant/s

Versus

1. Man Mohan Jha son of Shri Devendra Jha, Resident of Bina Kunj, Ward No. 19, Madhubani Town, P.O. P.S. and District Madhubani.
2. Indra Kumar Paswan son of Banarsi Paswan, Resident of Laheriyaganj, Raghuni Tola P.O. Raghunidehat, P.S. Rajnagar, District Madhubani.

... ... Respondent/s

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Appearance :

For the Appellant/s : Mr. Kumar Pankaj, Adv.
For the Respondent/s : Mr. Sandeep Jha, Adv.

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL ORDER

7 21-08-2025 Heard Mr. Kumar Pankaj, learned counsel for the appellant, Mr. Dhananjay Kumar Tiwari, learned counsel for the driver-cum-owner, namely, Indra Kumar Paswan while Mr. Sandip Jha, learned counsel represents the claimants.

2. This memo of appeal has been preferred challenging the order and judgment dated 08.11.2019 as also the Award dated 20.11.2019 passed by the learned District Judge cum Motor Vehicle Accident Claim Tribunal, Madhubani (henceforth for short ‘the MACT’) in Claim Case No. 08 of 2016 C.F. (9/2016) by which the Court accepting the claim of the claimants gave direction for payment of compensation amount of Rs. 3,54,624/- along with six per cent interest from

the date of settlement of issue i.e. 16.05.2017 within two months and failure to do so, the claimant shall be at liberty to take recourse of law for the realization of the amount.

3. The brief facts of the case leading to the present Misc. Appeal is/are as follows:

4. The injured cum claimant, Manmohan Jha along with his friend, Gunjan Kashyap were on foot towards Bajrangwali Temple on **09.01.2014** when a Tata Nano Car bearing Registration No. BR-06AB-6479 coming from the opposite side in a very rash and negligent manner dashed the claimant. He fell down, became unconscious, shifted to a private clinic and then to Paras Hospital, Patna. This led to Madhubani (Town) P.S. Case No. 28/2014.

5. After recovery, the claimant preferred **Claim Case No. 08 of 2016/09 of 2016** against the owner/driver, Indra Kumar Paswan and the National Insurance Company, Madhubani (henceforth for short 'the Insurance Company').

6. The issues were framed as under:

> *(a) is the claim petition, as filed and framed, maintainable?*
>
> *(b) has the applicant/claimant any cause of action to bring the case?*
>
> *(c) was the vehicle Tata Nano Car(registration No.BR-06AB-6479) driven*

by driver rashly and negligently on 9-1-2014, on which Man Mohan Jha(claimant) sustained grievous injury and became permanently disable?

(d) was the driver holding valid driving license?

(e) was the vehicle insured with National Insurance Company Ltd. at the time of accident?

(f) is the applicant/claimant entitled to get the compensation as claimed and if so to what extent and from whom?

(g) to what other relief or reliefs, if any, the applicant/claimant entitled?

7. Before 'the MACT', the appellant witnesses to support the case examined were as under:

i) AWI-Gunjan Kashyap,

ii) AW2-Man Mohan Jha(claimant himself),

iii) AW3-Devendra Kumar Jha,

iv) AW4-Krishna Mohan Jha and

v) AW5-Virendra Kumar.

8. The exhibits that were produced by the claimant is again incorporated hereinbelow:

Ext.-1: Certified copy of FIR bearing Madhubani(Town) P.S.case No.28/2014,

Ext.-1/a-certified copy of

chargesheet bearing No.81/2015,

Ext.-2-Disability certificate issued by the office of Civil Surgeon-cum-C.M.O., Madhubani,

Ext.-2/a-Injury report issued by Paras HMRI Hospital, Patna,

Ext.-2/b-Discharge Summary issued by Paras HMRI Hospital, Patna,

Ext.-2/c-Bill issued by M/s. Darshana Medicines, Madhubani in favour of the claimant,

Ext.-2/d-Patient bill (Summary) issued by Paras HMRI Hospital, Patna,

Exts.-2/e, 2/f, 2/g, 2/h, 2/i- cash receipts dated 27-1-2014, 18-2-2014, 19-4-2014, 8-7-2014 and 16-12-2015 respectively,

Ext.-2/j-cash receipt of total fare bill summery dated 17-12-2014,

Ext.-2/k-prescription issued by Dr. A.N. Jha, Madhubani,

Ext.-3-Photocopy of policy issued by National Insurance Company Ltd.on 16-2-2013.

On the other hand, the opposite parties have not adduced any evidence either oral or documentary in this case.

9. 'The MACT' went through the facts of the case and after hearing the parties, came to the conclusion that the claimants have been able to prove the case about negligent and

rash driving by the driving of the Nano car resulting into the accident which crippled him for months. It came to the conclusion that he as such is liable to be paid Rs. 3,79,624 and after deducting the initial interim compensation of Rs. 25,000/-, direction was given to pay Rs. 3,54,624/- along with six per cent interest as recorded above vide an order dated 08.11.2019/20.11.2019.

10. Aggrieved, the present appeal by the Insurance Company.

11. Mr. Kumar Pankaj representing the Company has taken this Court to the issues that were framed specially the issue no. (d) to show that whether the driver was holding a Driving License or not has not been explored to the prejudice/cause of the Insurance Company. He has now taken the Court to the findings where the Court took up issue nos. (c), (d) and (e) together and read as follows:

> *I first take up the issue Nos.(c), (d) and (e) as these issues are so intertwined and intermingled with one another that, on adjudication of these issues, all other issues would be decided conveniently. According to claim petition, it is the case of the claimant that when the claimant Man Mohan Jha reached near Bajrangwali Mandir, way Gumti No.13, Madhubani, driver of the Tata Nano*

car bearing registration BR-06AB-6479 driving rashly and negligently from opposite direction dashed the claimant, as a result, he sustained injuries on his person and fell down unconscious. He brought to the clinic of Dr. Aloka Nand Jha, but later he was referred to Paras HMRI Hospital, Patna where he was admitted on 10-1-2014 & where treatment of the injury was done by the attending doctor. AW4-Krishna Mohan Jha who happens to be brother of injured lodged an FIR, Ext.-1 for the offence u/s 279/337 of the IPC. The evidence of AWI who happens to be friend of the injured accompanying the injured at the time of accident has fully supported the accident causing injury on his person with the offending vehicle. AW2 who himself is an injured and claimant of this case have also explained the accident vividly causing injuries on his person. AW3, who is father of the injured claimant, has also supported the factum of accident causing injury on his person. In this way, from the entire evidence, it appears that all the witnesses have fully supported the accident causing injury to AW2 on his person. They have also stated that after the accident, he was removed to the clinic of Dr. Aloka Nand Jha, Madhubani, from where, he was referred for better treatment to Paras Hospital, Patna where he remained under treatment from 10-1-14 to 20-1-2014. On *perusal of Ext.-1/a, it appears that the 1.0.of this case has filed chargesheet against the O.P.No.1 finding the case true for the offence u/s 279/337/338 of the IPC. On perusal of the Ext.-2 and 2/a, it appears that the doctor has found comminuted fracture of right acetabulum being a grievous in nature and ciso found abrasion over right and right leg and so, the doctor operated the knee plate and also he remained under continued physiography and the board of the doctors found the disability of the claimant upto 30% reason out of the accident on the alleged date of accident. On perusal of Ext.-1, it appears that accident took place on 9-1-2014 and on the alleged date, offending vehicle bearing No.BR-06-6AB-6479 dashed against the claimant causing 30% disability as also opined by the board of doctors. On perusal of Ext.-3, it appears that the said offending vehicle was insured with the O.P.No.2 at the relevant date and time of occurrence. The validity of the policy of the said offending vehicle runs from 16-2-2013 to 15-2-2014 and occurrence took place on 9-1-2014. So, the accident took place within the validity period of offending vehicle No.BR0-6AB-6479 and on the said date, the owner of the said offending vehicle is O.P.No.1 who has stated in his WS that the said vehicle was insured with O.P.No.2 and O.P.No.2 itself has accepted this*

> *fact in WS at para 4 that the said vehicle was insured with it on the date of accident. So, under the facts and circumstances, the O.P.No.2 is under contractual liability to indemnify the owner and ultimately liable to pay compensation arising of the accident to the claimant. So, under the facts and circumstances and after careful appraisal of evidence as discussed here above, I find that the claimant sustained 30% disability out of the accident with the said offending vehicle No.BR0-6AB-6479. So, all these issues are decided accordingly and in favour of the claimant.*

12. He submits that nowhere the issue no. (d) has been dealt with and as such, the genuine grievance of the Insurance Company as to whether the owner-cum-driver of the Nano Car was holding a Driving License or not could not be verified.

13. The Court Records have come and he has taken this Court to the written statement filed by the Insurance Company on 09.01.2017 to show that in paragraph 10, it was averred that the claimant or owner of the vehicle should be directed to produce amongst other the effective Driving License of the driver who was driving the vehicle. He submits that this has completely been ignored to the prejudice of the Insurance Company.

14. Learned counsel for the Insurance Company further submits that the Company is not against the quantum of compensation amount that has been directed to be paid to the claimant, admittedly, he suffered injuries and the documents of the Paras Hospital clearly show the claim to be true.

15. However, neither the issue no. (d) was discussed nor the liberty was given to agitate/right to recover the matter and/or prove before the Court as to whether the driver was having a valid Driving License at the time he was driving the Nano Car.

16. The claimant as also the driver-cum-owner are present through their respective counsels. The written statement of the Driver-cum-owner, Indra Kumar Paswan (opposite party no. 1 before 'the MACT') is also on record and a perusal of the same shows that there was a policy with the Insurance Company between 15.02.2013 to 14.02.2014 and as such, it was a valid policy.

17. So far as the driving license part is concerned, the written statement of the Driver cum owner has not whispered a single word nor has provided the license number. In that background, the Insurance Company has made out a case for agitating the matter on the point as to whether the Driver cum

owner was having a valid driving license at the time of accident or not. The Driver cum owner shall also be getting an opportunity to rebut their claim by showing his bona fide that not only he was with a valid policy, was driving the vehicle with a valid Driving License.

18. So far as the payment to the claimant is concerned, the fight between the Insurance Company and the Driver cum owner cannot prejudice his cause, he having suffered the injuries in the year 2014 and remained bed ridden for months.

19. In that background, this Court directs the Insurance Company to immediately pay the aforesaid amount of Rs. 3,54,624/- to the claimant along with the interest as directed by ‘the MACT’ by 12th September 2025 failing which the claimant shall be entitled to an interest of twelve per cent per annum from 13th September 2025 till the actual payment is made.

20. It goes without saying that the Insurance Company will have the right to agitate/right to recover the matter before the Competent Court if it is able to prove and/or it is held that a proper Driving license was not there when Indra Kumar Paswan who at the relevant time was driving the Nano

Car made the accident. The order has been passed in the presence of the learned counsel representing the driver-cum-owner, Mr. Dhananjay Kumar Tiwari and as such, upon notice, he shall have the opportunity to rebut the charges.

21. With the aforesaid observations, the M.A. No. 357 of 2022 is disposed of.

22. The office is directed to return the Court's Record to the concerned Court immediately.

23. The Insurance Company shall be entitled to the return of the statutory amount deposited at the time of filing of the appeal.

(Rajiv Roy, J)

Vijay Singh/-

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