

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.152 of 2021

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D.M UNITED INDIA INSURANCE CO. at Shukla Imporium, Kalyani,
Muzaffarpur

... .. Appellant/s

Versus

1. SUJATA KUMARI W/o Late Murari Prasad Singh resident of vill.- Rasulpur Saiyad Salem, P.s.- Ahiyapur, District- Muzaffarpur, Pin-843125
2. Arpan Kumar S/o Late Murari Prasad Singh (male and minor) (Respondent no. 2 is minor through her mother and natural guardian Sujata kumari, respondent no. 1), resident of vill.- Rasulpur Saiyad Salem, P.s.- Ahiyapur, District- Muzaffarpur, Pin-843125
3. Sanjeev Kumar S/o vashishth Singh Resident at Nehru Nagar, Bhagwanpur, P.s.- Sadar, District- Muzaffarpur, Pin-842001 (Owner of the vehicle)

... .. Respondent/s

with

Miscellaneous Appeal No. 151 of 2021

=====

D.M., United India Insurance Company Limited, at Shukla Imporium,
Kalyani, Muzaffarpur.

... .. Appellant/s

Versus

1. Sujata Kumari W/o Late Murari Prasad Singh, Resident of Village - Rasulpur Saiyad Slem, P.S. - Ahiyapur, District - Muzaffarpur, PIN - 843125)
2. Sanjeev Kumar, S/o Vashishth Singh, Resident at Nehru Nagar, Bhagwanpur, P.S. Sadar, District - Muzaffarpur, PIN - 842001 (Owner of the Vehicle).

... .. Respondent/s

with

Miscellaneous Appeal No. 164 of 2021

=====

D.M. United India Insurance Company Limited, at Shukla Imporium,
Kalyani, Muzaffarpur.

... .. Appellant/s

Versus

1. Sujata Kumari W/o Late Murari Prasad Singh, resident of Vill. - Rasulpur Saiyad Slem, P.S. Ahiyapur, District - Muzaffarpur, PIN - 843125).
2. Sanjeev Kumar, S/o Vashishth Singh, Resident at Nehru Nagar, Bhagwanpur, P.S. Sadar, District - Muzaffarpur, PIN - 842001 (Owner of the Vehicle).



... .. Respondent/s

Appearance :

(In Miscellaneous Appeal No. 152 of 2021)

For the Appellant/s : Mr. Vikash Chandra Srivastava, Advocate

For the Respondent/s : Mr. Rajen Sahay, Advocate

(In Miscellaneous Appeal No. 151 of 2021)

For the Appellant/s : Mr. Vikash Chandra Srivastava, Advocate

For the Respondent/s : Mr. Rajen Sahay, Advocate

(In Miscellaneous Appeal No. 164 of 2021)

For the Appellant/s : Mr. Vikash Chandra Srivastava, Advocate

For the Respondent/s : Mr. Rajen Sahay, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL ORDER

15 21-08-2025 Heard Mr. Vikash Chandra Srivastava, learned
counsel for the appellants and Mr. Rajen Sahay, learned counsel
for the claimants.

2. The present memo of appeal is directed against order and judgment dated 17.02.2020 and award dated 25.02.2020 passed by the learned 7th Additional District Judge-cum-Motor Vehicle Accident Claim Tribunal, Muzaffarpur (henceforth for short ‘ the MACT’) in Claim Case No.359 of 2017 by which directions has been given to the United India Insurance Company Ltd, Muzaffarpur (for short ‘the Insurance Company’) to pay Rs.3,25,000/- (Rupees Three Lacs Twenty Thousand) each to the claimants in (Claim Case No.360 of 2017 and 361 of 2017) totaling Rs.6,50,000/- for the two minors and Rs.33,07,800/- (Rupees Thirty Three Lacs Seven Thousand and Eight Hundred) in (Claim Case No.359 of 2017) along with simple interest of 6% per annum from the date of filing the case



till the actual payment through the bank draft/account payee cheque within a period of one month.

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

“Sujata Kumar and Arpan Kumar, wife and son of deceased Murari Prasad Singh and mother and brother of deceased Nancy Kumari and Manshi Kumari preferred the three claim cases relating to an accident that took place involving Truck bearing Registration No.JH10G-2855 on 09.10.2017 near the RPS School gate, N.H.-77, Ahiyapur, Muzaffarpur when their motorcycle was hit by the said Truck. They were shifted to the S.K.M.C.H., Muzaffarpur, Ahiyapur P.S. Case No.855 of 2017 was registered under Section 279, 304(A), 427 of the Indian Penal Code. The allegation was that the Truck driver was driving the vehicle at a very high speed and in a very negligent matter which led to the accident in which all the three injured ultimately succumbed to the injuries, which as stated above followed the present case.”

4. The appellant herein presented itself before ‘the MACT, contested the case and one of the plea that was taken was that the Truck driver, namely, Ranjeet Sah had given the driving license no. MP/16/00245 which upon inquiry from the office of the Regional Transport Officer, Regional Office,



Rewa (Madhya Pradesh) and was found to be forged and fabricated. This was presented as Exhibits-A and B to their written statement.

5. The contention of the Insurance Company was that since the driver was not having the valid license, the Insurance Company cannot have liability and, alternatively, the amount has to come from the pocket of the Truck owner/driver.

6. It is to be noted that the owner of the vehicle chose not to appear and/or file written statement.

7. Issues were framed as under:

“I. Whether the claim cases are maintainable?

II. Whether the applicants have got cause of action or right to sue?

III. Whether the vehicle (Truck) bearing registration no. J.H.10G-2855 was being driven rashly and negligently by its driver and the accident took place at near R.P.S. School, P.S-Ahiyapur, District-Muzaffarpur on 09.10.2017 at 8.00 A.M. and in the said accident Murari Pd. Singh S/O Late Sharudhan Pd. Singh, Manshi Kumari and Nainshi Kumar D/O Late Mureari Pd. Singh seriously injured and died?

IV. Whether there has been any breach of condition of the policy of insurance by insured owner of the vehicle if so shows onus to such breach ?

V. Are the applicants entitled to compensation if so to what extent and from or from all the opposite parties ?

VI. Whether the applicants are entitled to any other relief or reliefs? ”



8. The Court took up the matter and examined following witnesses:

1. A.W.1- Sujata Kumari

2. A.W.2- Kundan Kumar

3. A.W. 3- Suman Kumar Mishra

9. On behalf of the opposite party, only one witness D.W.1- Anil Kumar Das was examined.

10. Though the order shows that on behalf of the claimants Exhibits 1 to 6 were filed, there is no exhibit on behalf of the Insurance Company.

11. 'The Tribunal' took up the matter on 17.02.2020 and after coming to the findings that the death of the three family members of the claimants took place pursuant to the accident they met with the Truck bearing Registration No.JH10G-2855, which was coming in a very high speed and in a negligent manner and the three appellant's witnesses stood the test of cross-examination made by opposite party no.2 as also perusing the F.I.R., the *postmortem* report and the charge-sheet, held that they withstood the cross-examination and remained intact.

12. So far as payment by the insurer is concerned, the appellant took the plea that since the owner failed to produce



the original driving license they are not duty bound to pay the compensation amount.

13. Claimants opposed the argument and submit that the opposite party has miserably failed to prove this fact and not brought on record any document.

14. In that background and holding that the opposite party has not filed any document before the Court that the Truck owner was not having any proper driving license, 'the MACT' held that the claimants are entitled to the compensatory amount.

It further computed the compensatory amount as follows:

Claim case no.360/2017 & Claim case no.361/2017

I. Loss of dependance: Hence the loss of dependance would be Rs.24,000/- (Rs.3,000 X 12 =36,000/- - 1/3rd (i.e. Rs. 12,000) (after deducting 1/3rd as personal expenses.)

II. Multiplier :- After applying the multiplier to loss of dependency the total amount comes to Rs.24,000/- X 15 = Rs.3,60,000/-. Besides this the claimants are also entitled further for general damages.

IV. Funeral Expenses :- The claimants are entitled to get Rs.5,000/- as funeral expenses,

V. Loss of love and affections :-Rs.10,000/- as loss of love and affections.

Total amount:-Hence, the total compensatory amount comes at the tune of Rs.3,75,000/- only.

Claim Case No.359/2017

So far as the income of deceased Murari Pd.



Singh is concerned. From perusal of Ext-4 Owner book of the deceased it appears that the deceased was owner of a Tractor bearing registration no. B.R.O6T-6265 it means the deceased was a rich farmer. From perusal of the Ext.6 it appears that the deceased was also engaged in the business and from perusal of the Ext.5 to 5/b income returns and T.D.S, It appears that the income tax return of the year 2011-12 and 2012-2013 filed on behalf of claimants it appears that the income of the deceased was Rs.2,26,700/- and Rs.2,55,600/- respectively.

In view of the above facts the income of the deceased may be presumed Rs.2,55,600/- yearly for the purpose of computation of compensatory amount. and the appropriate multiplier as second schedule of the M.V.Act may be 15.

I. Loss of dependency: Hence the loss of dependency would be Rs.1,70,400/-(Rs.2,55,600 - 1/3rd) after deducting 1/3rd as personal expenses.

II. Future prospectus :- Since the deceased was aged about 44 years at the time of road accident. On addition of future prospectus the loss of dependency would be Rs.1,70,400/- + 30% = Rs.2,21,520/-.

III. Multiplier :- After applying the multiplier to loss of dependency the total amount comes to Rs.2,21,520/- X 15 = Rs.33,22,800/-.

IV. Funeral Expenses :- The claimants are entitled to get Rs.5,000/- as funeral expenses.

V. Loss of estate :- Rs.10,000/- as a loss of estate

VI. Loss of consortium :- Rs.20,000/- as a loss of consortium.

Total amount :- Hence, the total compensatory amount comes at the tune of Rs.33,57,800/- only



15. The claimants have earlier received Rs.50,000/- (Rupees Fifty Thousand) each in all the three claim cases as an interim compensation under Section 140 of the M.V. Act. 'The MACT' came to the conclusion that the claimants are entitled to the following amounts:

In Claim Case No.360/2017

After deducting Rs.50,000/- (Rupees Fifty Thousand) from the compensatory amount Rs.3,75,000/- (Rupees Three Lacs Seventy Five Thousand), direction was given to pay Rs.3,25,000/- (Rupees Three Lakh Twenty Five Thousand) along with simple interest of 6% per annum from the date of filing of the case till the actual payment.

In Claim Case No.361/2017

After deducting Rs.50,000/- (Rupees Fifty Thousand) from the compensatory amount Rs.3,75,000/- (Rupees Three Lacs Seventy Five Thousand), direction was given to pay Rs.3,25,000/- (Rupees Three Lakh Twenty Five Thousand) along with simple interest of 6% per annum from the date of filing of the case till the actual payment.

In Claim Case No.359/2017

The Court came to the conclusion that the entitlement is of Rs.33,57,800/- (Rupees Thirty Three Lacs Fifty Seven Thousand Eight Hundred) and as such after deducting Rs.50,000/- (Rupees Fifty Thousand), direction was given to pay Rs.33,07,800 (Rupees Thirty Three Lacs Seven Thousand Eight Hundred) along with simple interest of 6% per annum from the



date of filing of the case till the actual payment.

16. Aggrieved, the present appeal.

17. Learned counsel for the appellants submits that, though there are number of grievances, the company confines itself to only one point that they be given an opportunity to agitate the matter and realize the amount from the Truck owner, in view of the fact, that they had the document to show that the driver, namely, Ranjeet Sah, who was driving the vehicle having the Driving License No.MP/16/00245 was found to be forged and fabricated driving license upon query from the Regional Transport Officer, Regional Office, Rewa, (Madhya Pradesh).

18. Learned counsel for the appellants submits that this document was present as Exhibit-A before 'the MACT' but the same could not be found incorporated in the order in question.

19. Mr. Rajen Sajay represents the claimants in all the three cases. He submits that the accident took place in the year 2017, the widow along with her son are fighting the battle since then. The order was passed in the year 2020, five years later with a simple grievance that they be granted opportunity to take legal steps for realizing amount from the owner, the claimants have been bereft of the amount despite the fact that the bread



earner left this world eight years ago.

20. Having heard the parties and perusing the records, once the Court came to the conclusion that the claimants have successfully withstood the cross-examination and have come to the conclusion that the accident took place by Truck validly insured with this company, which was driven negligently and led the death of the husband and two daughters of the widow, namely, Sujata Kumari, it was the duty of the Insurance Company to at least release half of the amount, instead, it kept on agitating the matter and never ever took steps for the last four years so that the matter is heard at the earliest. Now when the Execution Case has been filed, feeling the heat, they want the matter to be taken to its logical conclusion.

21. So far as the claim of the Insurance Company that the Truck driver, at the relevant time, was driving the vehicle without any valid driving license is concerned, although the Court could not find the said Exhibit-A which relates to the document provided by the R.T.O., Rewa (Madhya Pradesh) in the provisional file, this Court is of the opinion that the Insurance Company is entitled to agitate the matter to prove that Truck driver was plying the vehicle without a driving license and if, the Insurance Company is able to prove that it was being



driven without any valid driving license, they are entitled to the recovery of the amount from the Truck owner. However, that cannot be a ground to stall the payment to the claimants.

22. With the aforesaid observations, the Miscellaneous Appeal No.152 of 2021, Miscellaneous Appeal No.151 of 2021 and Miscellaneous Appeal No.164 of 2021 are disposed of directing the Insurance Company to make payment to the claimants along with interest as directed by 'the MACT' by 08.09.2025 failing which the claimants shall be entitled to 12% interest from 09.09.2025 till the actual payment is made.

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

(Rajiv Roy, J)

anand/-

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