

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.845 of 2019

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The New India Assurance Company Limited, through its Divisional Manager,
Club Road, Muzaffarpur.

... .. Appellant/s

Versus

1. Urmila Devi, W/o Late Bhola Yadav, minor under guardianship of their mother, Urmila Devi, resident of Village- Bhagwanpur, P.S. Sadar, District- Muzaffarpur, PIN-843120, Permanent resident of Village- Korhan Bairiya, P.S. Kesaria, District East Champaran, PIN- 845434)
2. Rajesh Kumar (minor male), S/o Late Bhola Yadav, minor under guardianship of their mother, Urmila Devi, resident of Village- Bhagwanpur, P.S. Sadar, District- Muzaffarpur, PIN-843120, Permanent resident of Village- Korhan Bairiya, P.S. Kesaria, District East Champaran, PIN- 845434)
3. Ramesh Kumar (minor male), S/o Late Bhola Yadav, minor under guardianship of their mother, Urmila Devi, resident of Village- Bhagwanpur, P.S. Sadar, District- Muzaffarpur, PIN-843120, Permanent resident of Village- Korhan Bairiya, P.S. Kesaria, District East Champaran, PIN- 845434)
4. Rakesh Kumar (minor male), S/o Late Bhola Yadav, minor under guardianship of their mother, Urmila Devi, resident of Village- Bhagwanpur, P.S. Sadar, District- Muzaffarpur, PIN-843120, Permanent resident of Village- Korhan Bairiya, P.S. Kesaria, District East Champaran, PIN- 845434)
5. Navin Kumar Giri, S/o Shobhakant Giri, resident of Village- Nawada, P.O. and P.S.- Sakri, District- Madhubani, PIN- 847239 (Owner of Truck No. BR- 32B-7755).

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Vikash Chandra Srivastava, Advocate
For the Respondent/s	:	Mr. Yugal Kishore, Advocate
For the O.P. No.5	:	Mr. Krishna Chandra, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

4 25-09-2025 Heard the parties.

2. The present appeal has been preferred for the grant
of following relief(s):

“being aggrieved and dissatisfied with the



impugned judgment dated 27.04.2019 and Award dated 10.05.2019 passed by the learned Additional District Judge-cum-Motor Vehicle Accident Claim Tribunal, Fast Track Court No.- II, Muzaffarpur in Claim Case No. 121/2008.”

3. With the consent of the parties, the matter is taken up for final hearing.

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

5. The deceased, **Bhola Yadav** was ‘**Cleaner**’ of the (Truck Reg. No.-BR-32B-7755), was on duty on **05.11.2007** alongwith the Truck Driver. Due to negligent driving, the Truck turned turtle near Rupaspur, the ‘Cleaner’ died on the spot.

6. The Truck was assured with the **New India Assurance Company Limited, Muzaffarpur** (henceforth for short ‘the Company’). This led to the **Claim Case No. 121 of 2008 (Urmila Devi & Ors. vs. Navin Kumar and Anr.)**, the court following issues:

“(i) Is claim case as trained is maintainable?

(ii) Whether the accident in question took place due to rash and negligent driving of the vehicle Truck Reg. No. BR-32B-7755 on 5/11/07 in which Bhola Yadav died for which Rabaidpur



BS No. 68/07 was registered?

(iii) Whether owner of vehicle Truck bearing Reg. No. BR-32B-7755 had valid and effective Route Permit at the time of accident dated 5/11/07?

(iv) Are the claimants entitled to get compensation amount? Is so what would be the quantum of compensation form whom?

(v) Are the claimants entitled to get...?"

7. Though 'the Company' contested the case, the Truck Driver was not part of the hearing, thereafter vide an order dated 27.04.2019, having answered the issued in affirmative, the Fast Track Court No.-III, Muzaffarpur (henceforth for short 'the Court') directed 'the Company' to pay compensation amount Rs.5,30,000/-. Since Rs.50,000/- was earlier paid, 'the Court' directed payment of Rs.4,80,000/- with 7% interest per annum within a period of two months.

8. Aggrieved, the present appeal.

9. Learned counsel for the appellant submits that though it is not denying the accident and/or the death of the Truck Cleaner, despite putting forward the proof to show that the Truck was not plying with a valid permit on the date of



occurrence, hence the liability was to be shifted to the Truck Owner, the same was not taken note of and/or the liberty was not given to realize the amount.

10. Here, the coordinate Bench issued notice to the Truck Owner who has since appeared and according to learned counsel, he is ready to show to the court concerned that all the valid documents were there when the Truck met with the accident.

11. The Accident took place in the year 2007, the order came in the year 2019 (twelve years later), for next six years, the matter is pending before this Court and the victim (the families of the deceased) who was the only bread earner are waiting for the amount to come to their house for their further development.

12. So far as the claim of the appellant Company is concerned, if they are able to prove before the concerned court that the Truck was not plying with valid documents, certainly, they cannot be denied the relief in the matter. However, the same cannot be the ground for do not releasing the amount to the deceased.

13. This Court will go by the order of the Hon'ble Apex Court in the case of **Parminder Singh vs. New India**



Assurance Company Ltd. and Ors. reported in (2019) 3 SCC

(CRI) 50 with reference to paragraph 7.1 which read as follows:

“7.1. This Court in Shamanna & Ors. v. The Divisional Manager, The Oriental Insurance Co. Ltd. & Ors., held that if the driver of the offending vehicle does not possess a valid driving license, the principle of ‘pay and recover’ can be ordered to direct the insurance company to pay the victim, and then recover the amount from the owner of the offending vehicle”
(emphasis added)

14. In that background and as ‘the Company’ has come with the limited prayer to agitate the matter against the vehicle owner and respondent no.5, the Truck owner is also ready to prove before the court concerned, the Truck was moving on the road by valid documents, the liberty is granted to ‘the Company’ to agitate the matter.

15. The amount Rs.4,80,000/- has to be released alongwith 7% interest has to be paid to the victim family by 15th October, 2025, failure to do so the amount of interest shall be increased to 9% from 16th October, 2025 till the actual payment is made.

16. The Appeal stands disposed of with the aforesaid observation as also all the Interlocutory Applications also stand



disposed of. The statutory amount deposited by ‘the Company’
to be returned.

(Rajiv Roy, J)

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