

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.778 of 2012

1. The Chief Regional Manager, The New India Assurance Company Ltd. B.S.F.C. Building Frazer Road, P.S. Kotwali, Dist. Patna. Insurar of the offending Truct No. BR-1G-8935. represented through Shri Prabhakar Pradhan, Deputy Manager, and duly constituted attorney of the New India Assurance Company Ltd. having its regional office at 6th and 7th Floor, B.S.F.C. Building, Frazer Road, P.S. Kotwali, Dist. Patna.
2. The Branch Manager, The New India Assurance Co. Ltd., Mehra Bhawan, Pali Road, Dehari - on- Sone, District Rohtas. Insurar of the offending Truct No. BR-1G-8935. represented through Shri Prabhakar Pradhan, Deputy Manager, and duly constituted attorney of the New India Assurance Company Ltd. having its regional office at 6th and 7th Floor, B.S.F.C. Building, Frazer Road, P.S. Kotwali, Dist. Patna.

... .. Appellant/s

Versus

1. Islam Ansari @ Islam Miyan and Ors. S/O Abdul Latif Miyan R/O Vill-Gopalpur Chakanai, P.S.-Bidupur, Distt- Vaishali
2. Nasima Khatoon@Nasisa Khatoon W/O Islam Miyan R/O Vill-Gopalpur Chakanai, P.S.-Bidupur, Distt- Vaishali
3. Ramjee Gupta S/O Hans Lal R/O Village and P.O.-Badrabad, P.S.-Bdrabad, Distt- Arbal. Owner of offending vehicle Truct No. BR- 1G/8935.
4. Binod Kumar S/O Ratam Kumar R/O Village and P.O.-Badrabad, P.S.- Badrabad, Distt- Arwal. Driver of the offending Truck No. BR - 1G/8935.

... .. Respondent/s

with

Miscellaneous Appeal No. 527 of 2013

1. Md. Islam Ansari @ Islam Miyan and Anr. Son Of Abdul Latif Miyan,
2. Nasisa Khatoon @ Nasisa Khatun Wife Of Md. Islam Ansari Both Resident Of Gopalpur Chakamal, Police Station Bidupur District Vaishali

... .. Appellant/s

Versus

1. Binod Kumar and Ors. Son Of Ratan Kumar Resident Of Village, Post Office And Police Station Badrabad, District- Arbal
2. Ramjee Gupta Son Of Sri Hanslal Resident Of Village, Post Office And Police Station Badrabad, District- Arbal
3. The Chief Regional Manager, The New India Assurance Co. Ltd. B.S.F.C. Building 6th And 7th Floor, Frazer Road, Patna 800001
4. Branch Manager, The New India Assurance Co. Ltd., Mehera Bhawan Pali Road, Dehri-On-Son District- Rohtas



... .. Respondent/s

Appearance :

(In Miscellaneous Appeal No. 778 of 2012)

For the Appellant/s : Mr. Shailendra Kumar, Advocate
For the Respondent/s : Mr. Mukesh Prasad Singh, Advocate
Mr. Vijay Kumar, Advocate
Mr. Raj Kumar, Advocate
Mr. Shyam Kishor Singh, Advocate

(In Miscellaneous Appeal No. 527 of 2013)

For the Appellant/s : Mr. Shyam Kishor Singh, Advocate
For the Respondent/s : Mr. Sanjay Singh, Advocate
Mr. Mukteshwar Prasad Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL JUDGMENT

Date : 23-07-2026

Heard Mr. Shailendra Kumar, learned counsel for the New India Assurance Company Ltd (appellant in **MA No. 778 of 2012**), Mr. Raj Kumar for the vehicle owner, Mr. Mukesh Prasad Singh for the claimant as also Mr. Mukteshwar Prasad Singh who is representing New India Assurance Company Ltd., respondent nos. 3 to 4 in **MA No. 527 of 2013**.

2. M.A. No. 778 of 2012 has been preferred for the following relief:

“Being aggrieved and dissatisfied with the Judgment dated 27.09.2012 and award dated 18.12.2012 passed by Additional District Judge Xth cum Motor Accident Claim Tribunal, Patna in Claim Case No. 229 of 2011,”

3. Similarly, M.A. No. 527 of 2013 has been preferred for the following relief:



“against the Judgment and award dated 27.09.2012 and 18.12.2012 respectively passed in Claim Case No. 229 of 2011 passed by the learned Additional District Judge, X-cum-Motor Accident Claim Tribunal, Patna whereby and where under the applicants are aggrieved and have preferred the present memo of appeal to enhance the compensation.”

4. Both the Miscellaneous Appeals arises out of the common order and judgment dated **27.09.2012** passed by the **learned Additional District Judge, X-cum-Motor Accident Claim Tribunal, Patna in Claim Case No. 229 of 2011 (Md. Islam Ansari & Anr. vs. Binod Kumar and Ors.)**.

5. The facts of the case leading to the present case is/are as follows:

6. **Md. Mustaq Ansari @ Guddu** (deceased) was driving a motorcycle bearing **Registration No. BR-01-A-2748** and on **30.05.2011**, as he was coming from Hajipur to Patna, near the BISCOMAUN roundabout, he was hit by a truck bearing **Registration No. BR-1G-8935**, was immediately shifted to the Nalanda Medical College Hospital, Patna where he breathe his last. This led to **Alamganj P.S. Case No. 145 of**



2011 on 30.05.2011 under sections 279 and 304A of the Indian Penal Code against the truck driver.

7. The matter thereafter moved before Motor Accident Claim Tribunal, Patna (henceforth for short, 'the Tribunal') where the issues framed were as under:

“(i) whether the case, as framed, is maintainable;

*(ii) whether the deceased died due to rash and negligent driving of the driver of truck bearing **Registration No. BR-1G-8935;***

(iii) whether the insurer has violated the terms and conditions of the policy;

(iv) whether the claimants are entitled for the compensation amount, and if so, what amount and from whom;

(v) whether the claimants are entitled to relief or reliefs, if any.”

8. In support of their claim, the appellants put forward four witness which included:

(i) Islam Ansari @ Islam Mian (the claimant);

(ii) the lady, Nasima Khatoon (mother);

(iii) Md. Islam (cousin brother); and



(iv) Kayyum Ansari.

9. They have stated about the accident that took place near the BISCOMAUN roundabout. They have further stated that, at the time of death, he was twenty-three years old and beside studying, he was also doing tuition and taking care of his father's store, thus was having an income of **Rs. 5,000/-** per month.

10. The third witness and the cousin brother, Md. Islam who claimed that he was following the deceased on an auto and he has seen the entire occurrence. He has also supported the claimant's claim that the deceased was doing tuition work beside helping his father in the store and thus earning **Rs. 5,000/-**.

11. The fourth witness is Kayyum Ansari and according to him, the deceased was studying Bachelor of Arts and also doing tuition work beside taking care of his father's store.

12. The exhibits that have been put forward includes:

“(i) Exhibit-1 (the FIR lodged against the truck owner);

(ii) Exhibit-2 (the charge-sheet submitted against the truck owner, Binod Kumar);



(iii) Exhibit-3 (the postmortem report);

(iv) Exhibit-4 (the insurance document of the truck);

(v) Exhibit-5 (the correction in the registration number in the truck).”

13. It is to be noted that the truck was insured with the **New India Assurance Company Ltd.** (for brevity, ‘the Company’) for the period of **13.04.2011** to **12.04.2012** and the accident took place on **30.05.2011**. Thus the truck was having the valid insurance at the time of occurrence.

14. ‘The Company’ submitted its written argument stating that:

“(i) the claim framed is not legally maintainable;

(ii) it is fit to be dismissed for mis-joinder and non-joinder of the parties;

(iii) the certificate of fitness and tax token have not been filed;

(iv) the driver of the offending vehicle had no valid driving license on the date of accident nor had any valid permit for the route where the accident took place.”

(emphasis added)

15. The order sheet of the learned ‘The Tribunal’ shows that on **14.05.2012**, on the prayer made by the Insurance



Company, the vehicle owner was directed to provide the driving license of the driver for its verification. The specific contention of 'the Company' is/was that the truck was plying without any valid driving license. The record shows that the vehicle owner despite opportunity being granted, failed to submit the driving license for its verification/genuineness.

16. The case was finally taken up on **27.09.2012** and 'The Tribunal' recorded that so far as issue no. (i) is concerned, the claim is maintainable. Regarding the other issues, the Court took note of the fact that though the claimant claimed that the son was helping in the store and was also doing tuition job, no such document was ever made available to consider that he was earning Rs. 5,000/-.

17. As such, taking into account all the facts on account, it came to the conclusion that the claimants are entitled to **Rs. 3,16,500/-** alongwith the **statutory interest of 8%**. As **Rs. 50,000/-** draft was already handed over to the claimants earlier, it was recorded that they will be getting **Rs. 2,61,500/-** alongwith the statutory interest.

18. Aggrieved, while '**the Company**' challenged the order in **MA No. 778 of 2012**, the claimants also moved in **MA No. 527 of 2013** for the enhancement.



19. After some arguments, Mr. Shailendra Kumar, learned counsel for 'the Company' candidly submits that he would restrict himself to the prayer for allowing them to realize the amount that is to be handed over to the claimant from the vehicle owner as despite the Court's order, as recorded above, they failed to come up with the driving license for its verification and as such, it will be deemed that the truck was plying on the road without valid document and thus liable for the payment.

20. So far as the claimants are concerned, they claim that though they failed to submit documents to support their contention of deceased doing tuition job as also supporting the family by giving helping hand to his father in the store, even the oral evidences are admissible as per the Hon'ble Apex Court Judgement in the case of **Syed Sadiq and Ors. vs. Divisional Manager, United India Insurance Company Limited** reported in **(2014) 2 SCC 735** and **Ramchandrapa vs. Manager, Royal Sundaram Alliance Insurance Company Limited** reported in **(2011) 13 SCC 236** which records that even oral evidence is/are admissible while deciding the MACT cases.

21. Mr. Raj Kumar represent the vehicle owner and though the submission is that the Truck was moving with a valid



Insurance Company, on query about the non-production of the driving licence of the driver for its verification, the contention is that the driver was having a valid driving license.

22. Shri Mukteshwar Prasad is representing 'the Company' in **MA No. 527 of 2013** and according to him, the Court rightly took the Rs. 3,000/- per month income of the deceased as the claimants failed to come up with any document to support their case. The claim was made that the deceased passed Inter examination was doing graduation as also taking tuition and helping the parents in the store. However, none of the contention was/were supported by any document. The submission is that the Hon'ble Apex Court's orders (quoted above) can only come to the rescue in only such cases where the documentary evidences are not available, oral evidence can be taken. However, here is the case where the parents claim that the deceased passed the Intermediate examination and was doing graduation but no certificate of Inter nor the name of college was/were disclosed. Thus, even for accepting the oral evidence, at least the name and the place of the store and the kind of business that the parents were doing should have been narrated before 'the Tribunal' and/or incorporated in the petition which again is/are missing.



23. He as such, submits that though 'the Company' is entitled to get the amount realised from the vehicle owner as the Driver failed to provide the valid driving license, the claimants are not entitled for any relief other than what has been recorded in the order of the 'the Tribunal'.

24. Having gone through the facts of the case and the submissions put forward by the respective counsels, this Court is in conformity with the just and proper submission put forward by 'the Company' through its learned counsels namely, Mr. Shailendra Kumar as also Mr. Mukteshwar Prasad Singh.

25. Here is a case where an unfortunate death took place when the claimant's son while driving the motorcycle met with the accident. A case was registered against the vehicle owner. This followed the claim case before 'the Tribunal'. However, despite putting forward four witnesses which included the parents/claimants, they failed to come out with a single chit of paper to support their contention of the deceased doing tuition job and/or helping the parents in the store.

26. The specific case of the claimant is/are that he completed intermediate and was in his graduation. The least, in that background, was expected from the parents is/are to provide Intermediate certificate and the details of the College where he



was studying. If they wanted oral evidence to be accepted, even the name of the college should have been given. However, they failed to do so.

27. Further, the identity of the store, its location as also kind of business he was doing could have been helpful to them to put forward their points that even oral evidence has to be taken into account while considering the claim.

28. This Court is of the opinion that when the claimants failed to even do the basic homework, the Hon'ble Apex Court's Judgment cannot come to their rescue. In that background, the amount of Rs. 3,000/- per month decided by 'the Tribunal' was completely justified.

29. This takes the Court to the conclusion as follows:

(i) the **MA No. 778 of 2012** filed by 'the Company' stands disposed of granting liberty to 'the Company' to realise the amount from the vehicle owner in accordance with law in view of the fact that the driving license was not produced before the Court despite the specific order was passed on 14.05.2012. 'The Company' is further directed to clear the entire pending amount to the parents/claimants by **31st of July, 2026** with statutory interest, failing which, a cost of **Rs. 10,000/-** is to be handed over to them for the delay.



(ii) So far as the **MA No. 527 of 2013**, filed by the claimants, is concerned, no relief can be extended to them in view of the aforesaid averment made in the present appeal. The appeal fails, and is accordingly, dismissed.

30. The statutory amount deposited in by ‘the Company shall be returned to it forthwith.

(Rajiv Roy, J)

Adnan/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	24.07.2026
Transmission Date	N/A

