IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.929 of 2025

CNR No. BRHC011152672025

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Mansur Alam S/o Samasuddin, R/o Raipatti, Post -Dighwara, P.S. - Dighwara, District - Saran, PIN-841207.

... ... Appellant/s

Versus

1. Shama Perveen W/o Late Shakeel Anwar, R/o Village and Post - Narany, P.S. Awatar Nagar, District - Saran, PIN-841216.
2. Nafis Ali Anwar, S/o Late Shakeel Anwar, R/o Village and Post - Narany, P.S. Awatar Nagar, District - Saran, PIN-841216.
3. Nakib Alam, S/o Late Shakeel Anwar, R/o Village and Post - Narany, P.S. Awatar Nagar, District - Saran, PIN-841216.
4. Munaf Anwar, S/o Late Shakeel Anwar, R/o Village and Post - Narany, P.S. Awatar Nagar, District - Saran, PIN-841216.
5. Arju Parveen, D/o Late Shakeel Anwar, R/o Village and Post - Narany, P.S. Awatar Nagar, District - Saran, PIN-841216.
6. IFFCO TOKIO General Insurance Company Limited, through the Legal Manager/CSC Head-Lucknow, 1st floor, Potash Bhawan, 3-Gokhale Marg, Lucknow, State - Uttar Pradesh, PIN - 226001.

... ... Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Ajit Kumar Singh, Advocate
For the Respondent/s	:	Mr. Sameer Kumar, Advocate
For the Resp. No. 1 to 5	:	Mr. Arvind Kumar, Advocate Mrs. Pragya Priya, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL ORDER

6 29-10-2026 Heard the parties.

2. The present application has been preferred for the following relief(s):

"that instant memo of appeal being preferred by aforesaid Appellant agains the judgment & award dated 06/05/2024 passed ex parte against appellant in connection with MV

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Claim Case No. 76/2023 (Shama Perveen & Others Mansur Alam & Others) by the Ld. Court of 11th Addl. District Judge cum- M.A.C.T., Muzaffarpur whereby the Ld. Court has ordered to pay O.P. No. 1 (instant appellant) to pay claimant no. 1 (Shama Perveen) Rs. 36, 61, 552/ and to pay other claimants i.e. each son and daughter Rs. 7, 67, 510/. Further, O.P. No. 1 shall pay the compensation within two months from the date of the Award and shall also be liable to pay interest @6% per annum on the aforesaid amount from the ate of institution of the case to the date of actual payment. In case payment is not made within two months from the date of order then O.P. No. 1 shall be liable to pay interest @rate of 8% per annum from the expiry of the aforesaid period of two months to the date of actual payment. The Hon'ble Court has to be reminded that the Ld. Court vide para 11 has given direction to send a copy of the judgement & award to O.P. No. 2 i.e. Legal Manager, IFFCO-TOKIO GIC for compliance".

3. The story starts in the year 2022, to be precise on

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17.05.2022 when the deceased, **Shakeel Anwar** Teacher in the School, while returning on a motorcycle with Dr. Aftab Alam was dashed by a Tractor bearing Registration no. **BR-04-GA-7517** which was being driven rashly and negligently. This led to the injuries to both Shakeel Anwar as also Dr. Aftab Alam. They were shifted to Dighwara, P.H.C and then to P.M.C.H, Patna where Shakeel Anwar succumbed to the injuries on **23-06-2022**. The Police recorded the statement in the PMCH and forwarded it to the SHO, Dighwara which followed the registration of **Dighwara P.S Case No. 224 of 2022.** The deceased at the relevant time was serving in the school with salary of Rs. 54,406/- and he was the sole bread earner of the family.

4. Later, the widow along with the children preferred **Claim Case No. 76 of 2023** ***(Shama Perveen and Ors vs. Mansur Alam and Ors).*** The matter was taken up by the Motor Vehicle Accident Claim Tribunal 11th , Muzaffarpur (henceforth the short **'the Tribunal'**) and the issues were framed as under:

(i) whether the deceased Shakeel Anwar died due to rash and negligent driving of the driver of Tractor No. BR04GA-7517?

(ii) whether the claimants are entitled to

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the claim and if so by whom?

(iii) what is the amount of compensation?

5. Upon notice, whether the Tractor owner appeared, (the appellant herein) nor the IFFCO-TOKIO general Insurance Company Limited (henceforth for short 'the Insurance Company') chose to appear and/or present their respective case.

6. The appellant herein as stated above also despite valid service of notice chose not to contest the case.

7. The witnesses were examined and '**the Tribunal**' came to the conclusion that Shakeel Anwar died due to the rash and negligent driving of the tractor Driver No. BR-04-GA-7517. So far as the second issue of entitlement is concerned, it was recorded that on the date (17.05.2022) the accident took place, the Certificate on record shows that the insurance was valid from **03-07-2022 to 02-07-2023** and as such, the vehicle was not insured. Accordingly, calculating the age as also the salary of the deceased who was a School Teacher, direction was given to make payment of award amount.

8. Aggrieved, the present appeal by the vehicle owner.

9. On 03-09-2026, this matter was taken up and with the help of Annexure -3, learned counsel for the appellant

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submitted that Tribunal erred in recording that the policy was valid from **03-07-2022 to 02-07-2023** and as such, there was no policy on the date of occurrence. Actually, **'the Tribunal'** erroneously glanced upon the subsequently renewed policy. The fact remains that prior to it, the previous policy with the same Insurance Company was there valid from 04.07.2021 to 03.07.2022. Thus, when the accident took place on 17.05.2022, there was policy from 'the Insurance Company'. In that background, direction should have been given to it for the payment of the award amount instead of the vehicle owner.

10. It is to be noted that on 03.09.2026, when the matter was taken up, Mr. Sameer Kumar appeared, the submission he made was that though the lawyer concerned is panel lawyer for the 'the Insurance Company', he has been asked by the officials not to appear in the matter.

11. Paragraph nos. 9 to 12 of the order dated 03.09.2026 stands incorporated hereinbelow:

> ***9.*** *Though Mr. Sameer Kumar, learned counsel for the Insurance Company has accepted copy of the appeal e supplied by the learned counsel for the appellant, He however, submits that instruction is not to appear. The further submission*

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is that the copy of the appeal has already been sent to 'the Company' by the registered post.

10. *It is unfortunate that 'the Insurance Company' despite having knowledge of the present appeal and also in receipt of the copy of the appeal sent by Mr. Sameer Kumar has not given any instruction to its lawyer on the point as to whether the claim made by the appellant that it has having a valid policy is on the date occurrence is a correct version or not.*

I.A. No. 01 of 2025

11. *The present interlocutory application has been preferred to stay the operation of the order dated 17.01.2026 passed by* ***'the Tribunal'*** *in connection with the* ***Claim Execution Case No. 18 of 2025*** *arising out of* ***Claim Case No. 76 of 2023*** *whereby and whereunder, the Order* ***dated - 17-01-2026 (warrant of arrest in Execution under order XXI Rule 38 of the Code of Civil Procedure)*** *has been issued against the judgment-debtor as he failed to comply the decree of the said Court passed on* ***06.05.2024*** *in* ***Claim Case No-76 of***

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2023.

12. *Issue notice both in appeal and the I.A. to the respondent nos. 1 to 6 through both processes i.e. ordinary as well as registered cover with A/D for which requisites etc. must be filed within a period of one week failing which the application shall stand rejected without further reference to the Bench.*

12. It was in the aforesaid circumstance that though Mr. Sameer Kumar was present in the Court, on his submission that the company has not given him any instruction to appear, notice was issued to the insurance company.

13. Now the same Mr. Sameer Kumar has come forward with the vakalatnama of the company to contest the case. This Court has recorded the entire facts to show how 'the Insurance Company' has acted in the matter by firstly ignoring the notice sent by 'the Tribunal' forcing it to decide the matter ex-parte. Even before this Court , it directed its panel lawyer not to appear before the Court and only after the notice was issued, has been forced to appear. The said stand of the Insurance Company is deprecated.

14. Mr. Sameer Kumar submits that the vehicle was

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indeed having valid policy from 04.07.2021 to 03.07.2022 and thus, the time of the accident, it was insured with 'the Insurance Company'.

15. Learned counsel however submits that the accident took place at Dighwara but the Muzaffarpur Tribunal wrongly took up the matter and decided it.

16. Upon query, learned counsel for the claimant submits that though they were residing in Saran as the husband was serving in the school, of late, they shifted to Muzaffarpur with the relatives at the relevant time and as such, the petition was rightly preferred before 'the Tribunal', Muzaffarpur. The submission is that the place the claimant is residing can also be the basis for submitting petition for grant of relief and in that background, 'the Tribunal', Muzaffarpur was fully justified in taking up the matter.

17. At this stage, the Court records paragraph no. 3 of 'the Tribunal's' order dated 06.05.2024 which read as under:

> ***3.*** *In this case inspite of due service the opposite party no.1 namely Mansoor Alam and opposite party no.2 namely Legal Manager IFFCO TOKIO General Insurance CO, Ltd., did not turn up and proceeding against them were ordered to be*

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continued exparte by order dated 20.07.2023.

18. The aforesaid paragraph has only been recorded to observe that despite valid service, the Company absented itself, here also, it tried to hoodwink the Court by asking its panel lawyer not to appear. It just wanted the order of 'the Tribunal' to continue by which, in absence of valid policy having been made available, an order has passed with the direction to the vehicle owner to pay the award.

19. Now the point is being raised that when 'the Tribunal' has passed the order on the basis of subsequent policy, no interference is needed.

20. This Court has perused the policy that is on record and is convinced that on the day, the accident took place, the vehicle was under a valid policy, a fact the learned counsel for 'the Insurance Company' has not denied.

21. The facts have been recorded, the admitted position is that the claimant's husband died due to rash and negligent driving of the Tractor bearing **BR-04-GA-7517**. On 17.05.2022 vehicle was having a valid policy with 'the Insurance Company'. The deceased was serving in a school with a salary of **Rs. 54,406/-** and was 47 years of age. Accordingly, 'the Tribunal' came to the conclusion that the claimants are

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entitled to relief. However, as the appellant and the Insurance Company did not appear, under false notion and on the basis of subsequent policy, the onus was shifted towards the vehicle owner which was not correct as the events have unfolded.

22. Now the facts have been cleared, the policy that has been annexed with the appeal by the Tractor owner shows that it was valid between **04-07-2021 to 03-07-2022**. When the accident took place on **17-05-2022**, it was having a valid insurance policy. This fact has not been denied by the company through its lawyer who has conceded that the vehicle was having valid policy at the time of accident.

23. In that background, the payment responsibility now stands shifted from the Tractor owner to that of the Insurance Company who shall be duty bound to clear the amount within a period of 30 days from today.

24. The Insurance Company shall have the liberty to agitate against the vehicle owner if any new fact emerges but that cannot be any ground to delay the payment.

25. The statutory amount that has been deposited by the appellant owner shall be returned to him.

26. The M.A No. 929 of 2025 is disposed of with aforesaid observation. I. A., if any, also stands disposed of.

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27. Office to take immediate steps to return the original records of the Claim Case No.76 of 2026 to the Court concerned.

(Rajiv Roy, J)

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