

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Appeal No.584 of 2013

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1. United India Insurance Company Limited, through its Branch Manager, Bolpur, Shanti Keketan, Tourist Lodge Road, Opposite Bolpur Sub Divisional Office, Near Bus Stand, P.O./P.S. Bolpur, District- Birbhum (West Bengal),
 2. United India Insurance Company Limited, Suri, through its Branch Manager, United India Insurance Co Ltd., P.O./P.S. Suri, Distt. Birbhum, West Bengal,
 3. United India Insurance Company Limited, Bhagalpur, through its Branch Manager, United India Insurance Co. Ltd. Dr. Rajendra Prasad Road, Bhagalpur, At+P.O.+P.S.+Distt. Bhagalpur, Bihar
 4. United India Insurance Company Limited, Bhagalpur, through its Divisional Manager, United India Insurance Co. Ltd. Dr. Rajendra Prasad Road, Bhagalpur, At+P.O.+P.S.+Distt. Bhagalpur, Bihar
 5. United India Insurance Company Limited, Patna, through its Regional Manager, United India Insurance Company Ltd., Chanakya Commercial Complex, R-Block, Patna. Appeal and Appellants through the Manager and Authorized Signatory, Regional Office, United India Insurance Company Limited, 3rd Floor, Chanakya Towers, R-Block, Patna.

... ... Appellant/s

Versus

1. Neetu Kumari W/o. Ramchandra Prasad Bhagat
2. Avinash Kumar S/o Ramchandra Prasad Bhagat (Res. 2 is minor and is under the natural guardian Mother, Res.1). All the above are resident of village Jamui Bazar(Purani Bazar), P.O/PS/Dist. Jamui.
3. Ranjan Dey S/o Lt. Ramkrishna Dey Resident of Village-(7th) Seventh Pally, PO/PS. Bolpur, Dist. Birbhum W B (Owner cum driver of vehicle)

... ... Respondent/s

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The Motor Vehicles Act, 1988---Section 140—vehicle validly insured for the period covering the date of accident—vehicle driven by the owner-cum-driver—driver had a license to drive motorcycle, scooter etc., not light motor vehicles like Tata Sumo—grant of ad interim compensation on “no fault” principle—driver was son of the registered owner—coverage of gratuitous passenger under insurance policy for compensation.

Held: The liability to pay compensation and entitlement to get compensation based on no fault principle—the term “No fault” covers the gratuitous passenger—claimant entitled to compensation—Registry directed to remit back amount deposited at the time of filing of the claim case in the name of the claimant.

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... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Durgesh Kumar Singh, Advocate
For the Respondent/s : None

CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL JUDGMENT
Date : 04-02-2019

Heard learned counsel for the appellants. No one appears on behalf of the claimants (respondent Nos.1 & 2) or the owner (respondent No.3) in spite of service of notice.

2. By the impugned order dated 20.06.2013 passed



in Claim Case No.1 of 2012, the Ad hoc Additional District Judge-IV-cum-M.A. C.T., Jamui, has awarded Rs.50,000/- (rupees fifty thousand) in favour of the dependents of Mr. Ashish Kumar Bhagat, who is victim of road accident.

3. The fact of this case is that the deceased and others were traveling on a Tata Sumo, bearing registration No.WB-54B/8526, from Bolpur to Tarapith in the West Bengal. The driver of the vehicle lost control and the vehicle met with an accident wherein Ashish Kumar Bhagat who was travelling in the same died. For the occurrence aforesaid, Sioudi P.S. Case No.307 of 2011 was registered. The Tribunal while allowing the prayer under Section 140 of the Motor Vehicles Act, 1988, found that the vehicle was validly insured for the period covering the date of accident. The vehicle was being driven by the owner-cum-driver Ranjan Dey, the Opposite Party No.2 before the Tribunal. The prayer was opposed on the ground that the driver had a license to drive motorcycle, scooter etc. only and not light motor vehicles.

4. The Tribunal observed that such type of technicalities cannot come in the way of grant of ad interim compensation, which is just on “no fault” principle and is part of a beneficial legislation.



5. Learned counsel for the insurer submits that registered owner of the vehicle was a necessary party before the Tribunal but he was not made party and the contention of the insurance company is that Ranjan Dey was not the owner of the vehicle; rather he was son of the registered owner. Further contention is that the insurance policy was an Act policy. Hence, it did not cover the case of gratuitous passenger. The deceased was gratuitous passenger on the vehicle and he was not entitled to receive any compensation.

6. Learned counsel has cited several judgments in support of his contention that gratuitous passengers cannot get compensation.

7. Since, the liability to pay compensation and entitlement to get compensation under Section 140 of the Motor Vehicles Act is based on no fault principle. Hence, it cannot be accepted as a defence that since the deceased was a gratuitous passenger, the claimant cannot get Rs.50,000/- payable on no fault principle. Term “No fault” covers within its swip the gratuitous passenger. Only fault of the victim is that he was a gratuitous passenger and this fault cannot be looked into while considering the application under Section 140 of the Motor Vehicles Act, 1988. However, the appellants shall be at liberty to



raise defence at the time of adjudication of main claim petition,
if filed or comes in future.

8. The Registry is directed to remit back the
amount deposited at the time of filing of the claim case in the
name of one of the claimants through cheque for payment to the
claimants.

9. With the aforesaid observation, this appeal
stands dismissed.

(Birendra Kumar, J)

Mkr./-

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| AFR/NAFR | NAFR |
| CAV DATE | NA |
| Uploading Date | 07.02.2019 |
| Transmission Date | 07.02.2019 |

