

**IN THE HIGH COURT OF JHARKHAND AT RANCHI**  
**(Civil Miscellaneous Appellate Jurisdiction)**  
**M. A. No. 110 of 2010**

.....  
United India Insurance Co. Ltd. ..... Appellant

**Versus**

1. Most. Maimun Nissa @ Naimun Nissa, W/o Late Md.Yashin
  2. Nagina (Minor), D/o Late Md. Yashin
  3. Sabina (Minor), D/o Late Md. Yashin
  4. Sahjahan (Minor), S/o Late Md. Yashin
  5. Sohgra Biwi, W/o Mohammad Ashique
  6. Mohammad Ashique, S/o not known to the appellant
  7. Pallab Bhattacharya, S/o Late Prabodh Bhattacharya
- .....Respondents

.....  
**CORAM: HON'BLE MR. JUSTICE KAILASH PRASAD DEO**  
**(Through : Video Conferencing)**

.....  
For the Appellant : Mr. Ashutosh Anand, Advocate  
For the Respondent No. 7 : Mr. Pran Pranay, Advocate

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**11/24.06.2020**

Heard, learned counsel for the appellant, Mr. Ashutosh Anand and learned counsel for the respondent No.7, Mr. Pran Pranay.

The Insurance Company has preferred this appeal against the Award dated 18.02.2010 passed by learned District Judge-cum- Motor Vehicle Accident Claims Tribunal, Deoghar in M. V. Claim Case No.31 of 2008 under Section 140 of the Motor Vehicles Act granting interim compensation of Rs.50,000/- to the claimants.

Learned counsel for the appellant has submitted that deceased was a driver and he was murdered and claimants have an option to prefer an appeal under the Workman Compensation Act but they have wrongly preferred an appeal under the Motor Vehicles Act and because of the Insurance coverage, the ad-interim compensation has been awarded in favour of the claimants without going into the merit of the case, which is not sustainable in the eye of law. The claimants were entitled to claim under the Workman Compensation Act as the Insurance premium is being paid with regard to the employee.

Learned counsel for the appellant has further submitted that since it is a murder, as such, it would be proper that the compensation would have been awarded under the Workman Compensation Act and not under the Motor Vehicles Act.

Learned counsel for the respondent No.7 Mr. Pran Pranay has submitted that the learned Tribunal has awarded ad-interim compensation against

the Insurance Company as the vehicle is insured but wrongly saddled the owner too. He has also placed reliance upon the judgment passed by the Hon'ble Apex Court in the case of *Rita Devi & Ors. Vs. New India Assurance Co. Ltd.* reported in *2005 (5) SCC 113*, where in absence of any definition of accident in Motor Vehicles Act, such murder is also considered to be an accident under the Motor Vehicles Act and as per Section 167 of the Motor Vehicles Act, the claimants are at liberty to prefer claim application under the Motor Vehicles Act or under the Workman Compensation Act whatever his wisdom.

Learned counsel for the respondent No.7 has further submitted that he has been wrongly fasten with the liability when the vehicle was insured, it should be against the Insurance Company.

After hearing learned counsel for the parties, since it is ad-interim compensation under Section 140 of the Motor Vehicle Act, this Court is not inclined to interfere with the same, however, the appellant shall raise all the issues in the Miscellaneous Appeal preferred, against the award passed under Section 166 of the Motor Vehicle Act. The owner has not filed any Miscellaneous Appeal against the same.

Accordingly, the Miscellaneous Appeal is hereby **dismissed**.

The Insurance Company has been fasten with Rs.25,000/- liability and Rs. 25,000/- against the owner, as such, both the parties i.e. the respondent no.7 as well as appellant shall indemnify the awarded amount within a period of four weeks.

The statutory amount deposited by the Insurance Company shall be remitted to the learned Tribunal by Registrar General of this Court within period of four weeks from today.

**(Kailash Prasad Deo, J.)**