

IN THE HIGH COURT OF JHARKHAND AT RANCHI

M.A. No. 303 of 2018  
With  
I.A. No. 4674 of 2018

-----

Divisional Manager, Division II,  
New India Assurance Co. Ltd., Ranchi. .... Appellant(s)

Versus.

1. Renu Srivastava
2. Sanjay Kumar Gupta. ... Respondent(s).

----

**CORAM: HON'BLE MR. JUSTICE ANANDA SEN  
THROUGH VIDEO CONFERENCING.**

-----

For the appellant(s): Mr. Alok Lal, Advocate.  
For respondent(s):

-----

**I.A. No. 4674 of 2018**

04/07.09.2021: This application has been filed under Section 5 of the Limitation Act praying therein to condone the delay of of about 10 days.

Counsel appearing on behalf of respondent(s) has got no objection, if the delay is condoned.

After going through paragraphs of the instant application, I am satisfied that the delay has been explained properly.

Considering the aforesaid fact, the delay is condoned.

Accordingly, this interlocutory application stands **allowed**.

**M.A. No. 303 of 2018**

The main appeal is taken up for hearing on merits.

2. Learned counsel for the appellant submits that the permit of the offending vehicle bearing Registration No. HR 38H 3136 was not valid at the time of accident and thus the liability cannot be saddled with the Insurance Company. He further submits that the entire liability is upon the owner of the vehicle and thus the owner of the vehicle is liable to pay the amount of compensation. He further submits that the accident had taken place when the offending vehicle collided with the motorcycle and the deceased was riding the said motorcycle. He also submits that in the aforesaid situation, there was contributory negligence on the part of the deceased. He further submits that the entire liability of paying the amount of compensation cannot be saddled on the Insurance Company. He lastly submits that the income of the deceased, which has been assessed, is on much higher side.

3. After going through record as well as the impugned award, I find that the Tribunal while deciding Issue No. 3 had concluded that it was the offending

Truck bearing Registration No. HR 38H 3136, which was solely responsible for the accident and the death of the deceased. The said finding is based on the evidence and there is nothing on record to suggest any contributory negligence on the part of the deceased and thus, I find that the ground taken by the Insurance Company that there was contributory negligence fails.

4. So far as assessment of the income of the deceased is concerned, I find that the tribunal has considered the income of the deceased notionally Rs.3000/- per month. This is a bare minimum amount, which a Court can accept for calculating the compensation. Thus, I am not inclined to interfere in the said issue with regard to assessment of the income of the deceased.

5. So far as issue with regard to permit of the offending vehicle is concerned, the Tribunal has framed issue in respect of violation of the terms and conditions of policy, which is issue No. 5. The Issue No. 5 has been addressed by the Tribunal in paragraph 10 of the award. After considering the evidence on record, the Tribunal concluded that the permit of the offending vehicle was valid from 5.12.2005 to 4.12.2006 and it expired after 4.12.2006. The accident occurred on 10.3.2009 and there is nothing on record that on that day, the vehicle had a valid permit. Considering the said materials, the issue was decided in favour of the Insurance Company and against the owner of the Truck and liberty was given to the Insurance Company to recover the awarded amount from the owner of the offending vehicle, after paying the amount of compensation.

6. Since the right to recovery has been given to the Insurance Company to recover the amount from the owner of the vehicle, this Court is not inclined to interfere with the impugned award.

7. This appeal is **dismissed** accordingly.

8. However, the Insurance Company is directed to proceed to recover the awarded amount from the owner of the offending vehicle in terms of the impugned award dated 3.2.2018 passed by the Motor Vehicle Accident Claims Tribunal, Ranchi in Motor Accident Claim Case No. 90/2010.

9. The Insurance Company is directed to withdraw the statutory amount, deposited before this Court.