

**IN THE HIGH COURT OF JHARKHAND AT RANCHI**  
**(Civil Miscellaneous Appellate Jurisdiction)**  
**M.A. No. 443 of 2018**

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Oriental Insurance Co. Ltd. .... .. **Appellant**  
**Versus**  
Sunita Devi & Others .... .. **Respondents**

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

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For the Appellant : Mr. Alok Lal, Advocate.  
For the Respondents :  
.....

**03/08.07.2020.**

Heard, learned counsel for the appellant, Mr. Alok Lal.

The Oriental Insurance Co. Ltd. has preferred this appeal against the award dated 21.08.2017 in Motor Accident Claim Case No.77 of 2008 passed by learned District Judge- IV-cum- Motor Vehicle Accident Claim Tribunal, Bokaro, whereby in case of injury to Fuleshwar Singh, son of Sri Manindra Nath Singh in a road accident, the learned Tribunal has awarded compensation to the tune of Rs.17,08,406/- along with interest @ 8% per annum from date of filing of the claim application.

Learned counsel for the appellant has submitted that I.A. No. 6643 of 2018 has been filed under Section 5 of Limitation Act for condonation of delay of 232 days and I.A. No. 3412 of 2020 has been filed under Order XLI Rule, 5(5) CPC to stay the execution of Certificate Case No.10 of 2018-19, pending before the Court of District Certificate Officer, Bokaro for realization of awarded amount passed by learned Tribunal along with the interest.

Learned counsel for the appellant has further submitted that appeal has been filed by the Insurance Company on few grounds:-

(i) the injured has not been examined as a witness.

(ii) disability certificate has not been proved by the author or the competent doctor.

(iii) wrong consideration of 100% permanent disability by the learned Tribunal at paragraph-11 at page-9.

(iv) The amount of compensation under the heading of pain and suffering is Rs. 3 lacs, loss of amenities and expectation of life is Rs. 3 lacs and for one attendant is Rs. 2 lacs has been awarded without any basis.

To buttress his argument, learned counsel for the appellant has relied upon the judgment passed by the Apex Court in the case of **Rajesh Kumar @ Raju Vs. Yudhvir Singh & Another** reported in (2008) 7 SCC 305, **Vidhyadhar Vs. Manikrao and Another** reported in (1999) 3 SCC 573 and **Janki Vashdeo Bhojwani and Another Vs. Indusind Bank Ltd. and others** reported in (2005) 2 SCC 217.

Though, some of the judgment are not related to the Motor Vehicles Act, but at this stage, it would not be proper to consider the same, rather on some of the point regarding pain and suffering, loss of amenities and attendant, this Court is inclined to issue notice upon the respondents.

Let notice be issued to respondent nos. 1 to 5 i.e. (1) Sunita Devi, wife of Fuleshwar Singh (Injured), (2) Sorabh Kumar Singh, son of Fuleshwar Singh, (3) Rani Kumari, daughter of Fuleshwar Singh, (4) Nishant Kumar Singh, son of Fuleshwar Singh & (5) Fuleshwar Singh, son of Manindra Nath Singh, all residents of Village – Katka, P.O. - Jaridih, P.S. - Balidih, District – Bokaro under ordinary process, for which requisites etc. must be filed within a period of three weeks.

As nothing has been pointed out to disbelieve the finding recorded by the learned Tribunal so far Issue No. 4 regarding the validity of licence of the driver of the offending vehicle bearing Bus No. WB-25A-8921 at the relevant time of the accident is concerned, as such, this Court is not inclined to issue any notice upon respondent no. 6 namely, Jahiruddin Mian (driver) and the respondent no. 7 namely, Deo Kumar Singh (owner) of the vehicle, as no contrary evidence has been brought on record by Insurance Company.

However, in the meantime, the Insurance Company must deposit Rs. 10 lacs before the District Certificate Officer, Bokaro in Certificate Case No. 10/2018-19 within a period of eight weeks and file an affidavit before this Court.

District Certificate Officer shall disburse the amount of Rs. 5 lacs in favour of the claimants and rest amount of Rs. 5 lacs in the fixed deposit in the name of the claimants with an endorsement that fixed deposit shall not be disbursed during pendency of this appeal.

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