

IN THE HIGH COURT OF JHARKHAND AT RANCHI

(Civil Miscellaneous Appellate Jurisdiction)

M.A. No. 188 of 2018

.....
Oriental Insurance Co. Ltd.

..... Appellant

Versus

1. Fatima Khatoon, W/o Md. Ashin, R/o Village- Baijladih, P.O. Gurio, P.S. Barhi, District- Hazaribag (Jharkhand)

2. Satis Kumar, S/o Ram Krishna Prasad, R/o Village, P.O.+P.S.- Bariatu, District- Latehar (Jharkhand) (owner of Truck No.JH-11A-2529)

Respondents

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

.....
For the Appellant

: Mr. Alok Lal, Advocate

For the Respondents

:

04/Dated: 05/04/2021.

Heard, learned counsel for the appellant.

The Oriental Insurance Co. Ltd. has preferred this appeal against the award dated 08.08.2017 passed by learned Presiding Officer, Motor Vehicles Accident Claim Tribunal, Hazaribagh in Motor Accident Claim Case No.37 of 2008 whereby the injured/claimant has been awarded compensation to the tune of Rs.2,97,749/- along with interest @ 6% per annum from the date of award within 30 days, failing which the award amount shall carry interest @ 9% per annum. The payment of ad-interim compensation, if paid, shall be deducted from the aforesaid amount.

Learned counsel for the appellant, Mr. Alok Lal has submitted that though the learned Tribunal has considered in page 9 at para 9 of the impugned award that it is not disputed that offending vehicle was insured with O.P. No.2 at the time of alleged accident. There is no evidence to indicate that the driver of the offending vehicle was not possessing a valid or effective licence or the owner of the offending vehicle had no valid papers qua the said vehicle at the relevant time.

Learned counsel for the appellant has submitted that from para 3 at page 3 of the impugned award, it appears that notice of the case was served upon the O.P. No.1 (owner), who appeared on 07.06.2011, but he did not file written statement, hence O.P. No. 1 (owner) was debarred from filing written statement on 16.11.2011.

Learned counsel for the appellant has submitted that at paras 10 and 11 of the written statement, a categorical statement has been made by the

Insurance Company that driver of the offending vehicle was not possessing valid driving licence even then the learned Tribunal has wrongly considered that there is no evidence to indicate that the driver of the offending vehicle was not possessing a valid or effective licence or the owner of the vehicle had no valid papers qua the said vehicle at the relevant time.

Learned counsel for the appellant has thus submitted that under the aforesaid circumstances, notice may be issued to the owner so as to direct him to file the relevant papers including the driving licence of the driver so as to verify the same, as the Insurance Company has not been given right to recovery even after indemnifying the award.

Under the aforesaid circumstances, let notice be issued to **respondent no.2-** Satis Kumar, S/o Ram Krishna Prasad, R/o Village, P.O. + P.S- Bariatu, District- Latehar (Jharkhand) (owner of Truck No.JH-11A-2529) so as to place the driving licence and other documents of the relevant time on record and **respondent no.1-** Fatima Khatoon, W/o Md. Ashin, R/o Village- Baijladih, P.O. Gurio, P.S. Barhi, District- Hazaribag (Jharkhand) under both the process, i.e. under registered cover with A/D as well as under ordinary process for which requisites etc. must be filed within a period of two weeks.

Learned counsel for the appellant has submitted that there is delay of 142 days in preferring the appeal and for condonation of the same, I.A. No.2934 of 2018 has been preferred before this Court.

Let the case be listed after service of notice upon the respondents.

(Kailash Prasad Deo, J.)