

(2012) 01 PAT CK 0093

In the Patna High Court

Case No : Miscellaneous Appeal No. 573 of 2009

Branch Manager, The United India Insurance Company Ltd. APPELLANT
Branch Office at Ranjan Complex, Patna Ranchi Road,
Biharsharif, P.O.- Biharsharif, District- Nalanda and The
Divisional Manager, The United India Insurance Company Ltd.
Sahid Chowk, Dr. Rajendra Prasad Road, P.O. Bhagalpur,
District- Bhagalpur

Vs

Usha Devi and Others RESPONDENT

Date of Decision : 19-01-2012

Acts Referred:

Motor Vehicles Act, 1988 — Section 140

Citation : (2012) 4 PLJR 291 : (2012) 2 TAC 30

Hon'ble Judges : Shailesh Kumar Sinha, J

Bench : Single Bench

Judgement

Honorable Mr. Justice Shailesh Kumar Sinha

1. Heard Learned Counsel for the appellants. No one appears on behalf of the respondents.
2. Both the appeals have been heard together as they arise out of the same accident giving rise to Claim Case No. 5 of 2009.
3. Misc. Appeal No. 573 of 2009 is directed against the order dated 23.07.2009 passed by the District Judge, Munger-cum-Accident Claims Tribunal in Claim Case No. 5 of 2009 directing for payment of a sum of Rs. 50,000/- as an interim compensation u/s 140 of the Motor Vehicles Act.
4. Misc. Appeal No. 478 of 2010 is directed against the final judgment and award dated 23rd January, 2010 which was signed on 8th February, 2010 by the Additional District Judge III, Munger-cum-Accident Claims Tribunal (hereinafter referred to as the Tribunal) in the aforesaid Claim Case No. 5 of 2009 whereby the appellants were directed to pay a sum of Rs. 6,89,500/- inclusive of the aforesaid interim compensation amount of Rs. 50,000/- with interest @ 9% per

annum from the date of claim application payable to Usha Devi (respondent no. 1) the widow of the deceased Ashok Kumar Gupta, who died in the accident in question.

5. Mr. Sanjay Singh, Learned Counsel appearing for the appellants submits that since the deceased was a gratuitous passenger as he was passenger of the Truk in question having Registration No. BR-21B-2402 which met accident with Tailor No. BR-27A-0566. It is further submitted that although a plea was taken in the written statement, however no evidence oral or documentary could be adduced on behalf of the Appellant-Insurance Company in the Court below.

6. Mr. Singh further submits that notwithstanding the compensation as allowed by the Tribunal, there was no justification for allowing interest @ 9% per annum, much less, in absence of any reason assigned for allowing such rate of interest.

7. From the submissions of the Learned Counsel for the appellant it would appear that the only serious grievance is with respect to the rate of interest allowed by the Tribunal. It is submitted that interest could not have been more than 6% per annum since the accident took place in the year 2005 when no such interest @ 9 % was available even in Bank, and therefore, at the material time the reasonable rate of interest could not had been more than 6% per annum only as also in absence of any special reasons for allowing 9% interest. In my opinion, the submission of the Learned Counsel for the appellant has substance. Accordingly, this Court directs for payment of interest @ 6% per annum instead of 9% per annum as allowed by the Tribunal. It is accordingly directed that the appellant must pay the compensation amount of Rs. 6,89,500/- allowed by the Trial court.

8. Mr. Sanjay Singh, Learned Counsel, however, informs the Court that a sum of Rs. 25,000/- each in both the appeals have been deposited in this Court, and as such, the deposited amount be remitted to the concerned Court below for its eventual withdrawal by the claimants. I order accordingly. Rest of the compensation amount be deposited by the appellant in the Court below within a period of two months for payment to the Claimant No. 1 for self and on behalf of the minor claimants.

9. The impugned award is modified to the above extent.

10. Both the appeals stand disposed of.