
(2019) 12 JH CK 0212

In the Jharkhand High Court

Case No : Miscellaneous Appeal No. 204 Of 2019

Divisional Manager

APPELLANT

Vs

Kumkum Devi And Ors

RESPONDENT

Date of Decision : 13-12-2019

Acts Referred:

Code Of Civil Procedure, 1908 — Order 41 Rule 5

Citation : (2019) 12 JH CK 0212

Hon'ble Judges : Kailash Prasad Deo, J

Bench : Single Bench

Advocate : G.C. Jha

Final Decision : Disposed Of

Judgement

Defect no.(4) as pointed out by the office is ignored for the present.

Heard, learned counsel for the appellant- the New India Assurance Company Ltd.

Appellant- the New India Assurance Company Ltd. has preferred this appeal against the award dated 06.10.2018 passed by learned District Judge-

VIII-cum-MACT, Dhanbad in Motor Accident Claim Case No.274 of 2017 whereby the claimants have been awarded compensation to the tune of

Rs.13,05,520/-along with interest @ 6% per annum from the date of filing of the case i.e. 10.11.2017.

Learned counsel for the appellant has submitted that claimants have preferred another miscellaneous appeal against the same impugned award dated

10.02.2018 vide M.A. No.30 of 2019 filed on 17.01.2019 i.e. prior to this appeal, as such, both the appeals may be heard together. Learned counsel for

the appellant has further submitted that I.A. No.4121 of 2019 has been filed for condonation of delay of 107 days in preferring the present appeal, as

such, notice is necessary to be issued upon the claimants/respondents.

Let notice be issued to the claimants/respondents i.e. respondent nos. 1 to 8 as well as respondent no.9- owner of the offending vehicle as the learned

Tribunal has given a finding that O.P. No.1 owner of the offending vehicle has violated the terms and conditions of the Insurance policy and Insurance

company has been given liberty to recover the same from the owner of the offending vehicle.

Let notice be issued to respondent nos.1 to 9-

1. Kumkum Devi, W/o Late Bibhuti Bhushan Choudhary
2. Doli Kumari, W/o Sri Niraj Kumar and D/o Late Bibhuti Bhushan Choudhary
3. Puja Kumari, D/o Late Bibhuti Bhushan Choudhary
4. Neha Priya, D/o Late Bibhuti Bhushan Choudhary
5. Shubham Kumar, S/o Late Bibhuti Bhushan Choudhary
6. Satyam Kumar, S/o Late Bibhuti Bhushan Choudhary
7. Basanti Devi, W/o Sri Ram Narayan Choudhary
8. Ram Narayan Choudhary, S/o Late Hari Prasad Choudhary All are resident of Sadhobad, Tola Barwadih, P.O. Kharni, P.S. Barwadda, Dist.

Dhanbad Jharkhand.

9. Sadan Sharma, S/o Late Ambika Singh, R/o Chanakya Nagar, K.G. Ashram, Saraidhela, P.O. & P.S. Saraidhela, Dist. Dhanbad, Jharkhand under

the ordinary process for which requisites etc. must be filed within 20.012.2019.

An Interlocutory Application being I.A. No.11374 of 2019 under Order-41 Rule 5 of the code of Civil Procedure has filed for stay of Execution Case

No.8 of 2019 pending before the court of District Judge-VIII-cum-M.A.C.T., Dhanbad for realization of the awarded amount passed in Motor

Accident Claim Case No.274 of 2017 on 06.10.2018.

Learned counsel for the appellant has produced the photocopy of order dated 07.12.2019 passed by learned District Judge-VIII, Dhanbad in Execution

Case No.8 of 2019 whereby the Executing Court has frozen the account of the judgment debtor i.e. the appellant- New India Assurance Company

Ltd bearing Account No.914020005031489 at Axis Bank Ltd., Bank More, Dhanbad to the extent of Rs.14,62,182/- till further order and fixing the

case for 12.12.2019.

The photocopy of the said order dated 07.12.2019 be kept on record.

The appellant- Assurance Company is directed to deposit the entire amount of Rs.13,05,522/- along with interest @ 6% per annum from the date of filing of the claim application dated 10.11.2017 within a period of 30 days from today.

The Executing Court shall disburse Rs.7,00,000/- to the claimants keeping the balance amount in the fixed deposit till disposal of the miscellaneous appeal. If the said amount is deposited before the Executing Court, the executing court shall recall the order dated 07.12.2019.

I.A. No.11374 of 2019 stands disposed of.

List this case along with M.A. No.30 of 2019 after service of notice.