
(2016) 05 JH CK 0202
In the Jharkhand High Court
Case No : M.A. No.277 of 2015

Divisional Manager, United India Insurance Co. Ltd.	APPELLANT
Vs	
Pati Devi	RESPONDENT

Date of Decision : 20-05-2016

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 41 Rule 5

Citation : (2017) 1 AIRJharR 791

Hon'ble Judges : Amitav K. Gupta, J.

Bench : Single Bench

Advocate : Mr. Ashutosh Anand, Advocate, for the Appellant; None, for the Respondents

Final Decision : Dismissed

Judgement

Amitav K. Gupta, J.—I.A. No.3279 of 2016

The present interlocutory application has been filed on behalf of the appellant under Order 41 Rule 5 read with Section 151 of the Code of Civil Procedure, for staying further proceedings in Certificate Case No.17/15-16, pending before the Certificate Officer, Bokaro, for realization of the awarded compensation amount of Rs.6,73,000/-.

2. It is submitted by the learned counsel for the appellant/ Insurance Company, that the appeal has been preferred impugning the award on the ground that the deceased was riding the motorcycle with two pillion riders. That the learned Tribunal has failed to appreciate that this was a case of contributory negligence. That the claimants have made contradictory statements regarding the source of income of the deceased. One witness has stated that he was earning Rs.6,000/- per month as a computer operator. Another witness has stated that he was earning by giving tuition and another witness has stated that the deceased was earning Rs.7,000/- per month by giving tuition and as a computer operator with a private firm. That the certificates, provided by the claimants show that the

deceased was a student of B.A.

On the above grounds, prayer has been made for staying the execution proceedings.

3. Heard. If the appellant/ United India Insurance Company deposits Rs.4,00,000/- (Rupees four lakhs only) as part payment of the awarded compensation amount before the Certificate Officer, Bokaro, by 30.06.2016, further proceedings in Certificate Case No.17/15-16, pending before the Certificate Officer, Bokaro, arising out of the T.M.V No.39 of 2011, passed by the learned District Judge ? IV -cum M.A.C.T, Bokaro, shall remain stayed.

4. I.A. No.3279 of 2016 stands allowed.

I.A. No.556 of 2016

5. Learned counsel for the appellant seeks permission to withdraw the above interlocutory application in the light of the order passed in I.A. No.3279 of 2016.

6. Permission accorded.

7. Accordingly, I.A. No.556 of 2016 stands dismissed as withdrawn.

M.A. No.277 of 2015

8. Learned counsel for the appellant shall file requisites of notice under ordinary process to be served upon the respondents in the limitation application as well as in the present appeal, by 17.06.2016.

9. Office is directed to list this case on 01.08.2016 under the appropriate heading, if the notices are so filed.

10. Let the order be communicated to the court below forthwith by FAX.