

(1996) 08 PAT CK 0009
In the Patna High Court
Case No : M.A. No. 308 of 1992

Gobardhan Barai and Another

APPELLANT

Vs

Aasari Khan and Others

RESPONDENT

Date of Decision : 01-08-1996

Acts Referred:

Citation : (1996) 2 ACC 457 : (1996) 2 PLJR 594

Hon'ble Judges : S.N. Mishra, J

Bench : Single Bench

Final Decision : Allowed

Judgement

S.N. Mishra, J.—Heard learned Counsel for the appellants, respondents owner and the insurance company. Having regard to the order that I propose to pass in this appeal, it is not necessary to give the details of facts of this case; suffice it to say that the claimants-appellants have filed an application before the Motor Accidents Claims Tribunal for grant of compensation on account of the death of Ram Ashish Barai, who died due to motor vehicle accident on 5.4.1990. The admitted position is that the father and brother of the deceased filed an application for compensation wherein the wife was not made an applicant only because she was married to the victim only one and a half months before the date of accident; rather she was transposed in the category of the pro forma opposite party No. 4, in the claim petition. The court has rejected the claim of the applicants only on the ground that the wife being the class I heir has not been made an applicant and as such the claim petition is not maintainable. The reason assigned by the Tribunal in non-suiting the appellants is wholly misconceived and not tenable in the eye of law. It is admitted position that the wife was on the record in the claim petition. It is true that she has not been made an applicant. The Tribunal could have directed payment of the compensation to the wife and the claim petition ought not to have been dismissed only on the technical ground. Accordingly, without going into the merit of the case, I set aside the order dated 8.9.1992 and remit Claim Case No. 16 of

1990 to the 3rd Asstt. Sessions Judge, Rohtas (Tribunal) for deciding the claim case in accordance with law in the light of the observation made above. It is made clear that no fresh notice to the parties, who have appeared before this Court, is at all necessary. They are directed to ascertain the date fixed in the claim case before the Tribunal which must be disposed of within three months from the date of receipt/production of a copy of this order. This appeal is, accordingly, allowed.