

(1929) 07 PAT CK 0023
In the Patna High Court

Nanoo

APPELLANT

Vs

Muni Lal and Another

RESPONDENT

Date of Decision : 18-07-1929

Acts Referred:

Citation : AIR 1929 Patna 738

Judgement

1. This is an application for setting aside an abatement arising by the death of Mooni Lal one of the respondents in the appeal. Mooni Lal is stated to have died on 20th August 1928, a date subsequent to the date upon which he had been served with the notice of the appeal. He died in a quarter of the Patna City and the controversy between the parties seems to be whether the appellant also resided in Patna City and, therefore, should have known of the death of the respondent.
2. There is clear evidence that he was unaware of the death of the respondent until about 14th or 15th January 1929. The most that can be said on behalf of the respondent is that in the circumstances the appellant should have known of the death of the respondent.
3. But it has been held on more than one occasion that an appellant having served notice on the respondent is not bound to enquire from day to day as to the state of the health of the respondent or whether he is dead or alive.
4. The case seems to be one in which the order of the Court should be that the time should be extended and the abatement will be set aside and there will be substituted in the place of Mooni Lal, Ram Shankar Lal, the son and Nanku Lal and Baccha Lal, the grandsons. The applicant will pay the costs of this application amounting to one gold mohur to the respondent.