

(2008) 08 PAT CK 0021

In the Patna High Court

Case No : LPA No"s. 859, 864, 877 of 2001

Smt. Vijay Lakshmi Devi and Others

APPELLANT

Vs

Ram Naresh Singh and Others

RESPONDENT

Date of Decision : 07-08-2008

Acts Referred:

Citation : (2009) 1 PLJR 638

Hon'ble Judges : C.M. Prasad, J;Barin Ghosh, J

Bench : Division Bench

Advocate : J.P. Shukla, Ashok Jha, S.C. Jha and Usha Kiran Hazari, for the Appellant; Purushottam Jha and R.K. Shukla for the Respondent Nos. 7 and 8, for the Respondent

Final Decision : Dismissed

Judgement

Barin Ghosh and C.M. Prasad, JJ.—Three claim cases were filed. In one of them it was alleged that a motor vehicle accident caused the death of the father of the claimant. In the others, it was contended that the self-same motor vehicle accident caused bodily injuries on the claimants. After pleadings were completed, the claims were tried. Claimants gave evidence through the son of the deceased and through two other witnesses. One of those other witnesses had no personal knowledge about anything and accordingly, his evidence was not accepted. The evidence of the other witness was also not accepted inasmuch as he was a resident of a distant place and did not explain why he was present at the place of accident and how the timing of his coming to the place of accident coincided with the accident and follow up actions. The evidence of the son of the deceased was not accepted because he was the claimant and his evidence was not corroborated. From that part of the evidence which was accepted, it appears that the deceased, his son, who deposed, and the wife of the son of the deceased were traveling in a bus which collided with the railing of a bridge and fell into a small river. There is no evidence, which can be accepted, that at the time of collision the deceased, his son and his daughter-in-law were in the bus. At the

same time, there is no evidence of the death as a result of the accident in question. There is also no evidence that the bodily injuries of the son of the deceased as well as of the daughter-in-law of the deceased were of any direct consequence of the accident. The son deposed that the dead body of the deceased was cremated by him, but, before cremation, the body was taken to a hospital. The Doctor of the Hospital before whom the body was taken did not depose. The son did not produce the post mortem report of the deceased. Instead he stated that at his request post mortem was not done. The son also did not produce the death certificate of the deceased. The Doctors, who deposed on behalf of the claimants talked about treatment of the claimants effected after about one month from the date of accident.

2. In the situation, the Claims Tribunal felt that neither the death, nor the bodily injuries could be linked with the accident in question. That being the state of evidence tendered by the claimants before the Claims Tribunal, in appeal, a learned Single Judge of this Court hardly had any scope of interference. His lordship, therefore, by a common Judgment and Order dismissed all the three appeals preferred by the claimants against the orders of the Claims Tribunal rejecting the claim cases, once again holding that the claimants have failed to link the death and the bodily injuries with the accident in question.

3. Being aggrieved thereby, the claimants are before us in this appeal. In the appeal, an application has been filed by the appellants seeking to bring on record additional evidence. The appellants contend that those evidences would link the death and the bodily injuries with the accident. One of those evidences is the minutes of the full Court reference conducted by this Court upon the death of the deceased, who happened to be a senior advocate. The other is the deposition of the driver of the bus in question as tendered in the criminal case pertaining to the said accident. Without going into the question whether those evidences can be taken on record or not and without going into question whether the same can be treated as evidence in a civil proceeding, but assuming that those may be treated thus, still then the conclusion would be, upon due consideration thereof, that despite those, the appellants have failed to link the death or their bodily injuries with the accident. That being the situation, there is no scope of interference. The appeals fail and the same are dismissed without any order as to costs.