

(1996) 07 PAT CK 0038
In the Patna High Court
Case No : Misc. Appeal No. 15/95

The Oriental Insurance Company Ltd.	APPELLANT
Vs	
Rajendra Pd. Yadav and Others	RESPONDENT

Date of Decision : 23-07-1996

Acts Referred:

Citation : (1997) 1 PLJR 923

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

Bench : Single Bench

Advocate : Ajay Kumar, for the Appellant; None, for the Respondent

Final Decision : Allowed

Judgement

S.N. Mishra, J.—The Oriental Insurance Company Ltd. through the Deputy Manager, has filed this Misc. Appeal against the judgment and award passed by the 2nd Addl. District Judge, Claims Tribunal, Katihar, whereby and whereunder the Tribunal has directed the Insurance Company to pay a sum of Rs. 80,000/- by way of compensation to the applicants who are Respondent Nos. 1 to 4 in this appeal. The Tribunal, on consideration of the evidence on record, has allowed the claim of the applicants to the extent indicated above.

2. Mr. Ajay Kumar, appearing on behalf of the Appellant, has submitted firstly that in this case the insurance policy stands in the name of one Ashok Choudhary who has not been made party in the proceeding in the court below and instead Ramawati Devi was made a party on the ground that she is the owner of the Tractor in question. The second argument of Mr. Kumar is that though the Insurance Company has paid a sum of Rs. 15,000/- by way of interim compensation, the said amount has not been deducted out of the total compensation amount as directed to be paid by the Insurance Company.

3. As regards the first submission, the learned Counsel has relied upon a Full Bench decision of the Punjab and Haryana High Court in the case of Oriental Fire and General Insurance Co. Ltd. Vs. Bachan Singh and Others, . Admittedly the

policy stands in the name of one Ashok Choudhary on the date when the occurrence took place, but unfortunately he was not made party in the proceeding. It is further submitted that said Ramawati Devi is neither related with the owner of the Tractor nor the Insurance Policy stands in her name and accordingly, the Tribunal has committed an error of law in directing the Insurance Company to " pay the amount in question.

4. No one appears on behalf of the Respondents. Since the question raised before this Court has not been dealt with by the Tribunal, it is desirable that the matter should be considered afresh by the Tribunal in the light of the submission made on behalf of the Appellant.

5. Accordingly, without going into the merit of this case, I set aside the judgment dated 2.12.94 passed by the Tribunal and remit the case back with a direction to pass a fresh order dealing with the submissions of the learned Counsel for the Appellant as early as possible preferably within one month from the date of receipt/production of this order without giving unnecessary adjournment sought for on behalf of the parties. The lower Court record alongwith the order, if any, be sent down forthwith.

This appeal is allowed to the extent indicated above.