

In the court of District & Addl. Judge 07th-cum- Motor Vehicle Claim Tribunal, Vaishali at
Hajipur
Claim Case No-65/2016
District-Vaishali
(Claim petition U/s 166, M.V.Act, 1988)

1. Sabuj Pari W/o Late Jagdish Singh (Wife of deceased)(Dead through L/R)
2. Alakh Niranjana Singh S/o Late Jagdish Singh (Dead through L/R)
3. Chitranjana Singh S/o Late Jagdish Singh
4. Ashwani Singh S/o Late Jagdish Singh

All resident of Village-Dhanukhi, P.S. Kartahan, District-Vaishali.

-----applicants.

Vs.

1. Subodh Kumar Sharma S/o Ramdhar Sharma, (Registered owner of the vehicle BR-7P-8282 Bus responsible for accident)
R/o Kalambagh road, Holding no. -17, Muzaffarpur.
Temporary address C/o Sunil Kumar Sharma, Rumar Tractor, Mirzapur Chowk, Dharbhanga.
2. Vidyanand Jha S/o- Late Laxman Jha (Driver of the offending bus bearing registration No- BR-7P-8282.
At Singhara Tanda, P.S. Mahua, Distt. Vaishali
3. New Oriental Insurance Company Ltd.
Through :
(A) Divisional Manager, The Oriental Insurance Company Ltd, Gadhi Chowk, Konhara Ghat Road, Hajipur.
(B) Branch Manager, The Oriental Insurance Company Ltd, Mirzapur Main Road, Dharbhanga.

-----Opposite Parties.

Learned counsel for the applicant: Sri Avnish Kumar, Learned Advocate
Learned counsel for O.P. No-1 :Sri Dipak Kumar Sharma, Learned Advocate
Learned counsel for O.P. No-2 :None
Learned counsel for O.P. No-3- Sri Rajeev Ranjan Sinha, Learned Advocate

Date of judgment: 23th day of July, 2026.

Present:

Rajeev Ranjan Singh
District & Addl. Judge 19th-cum-
Addl. Motor Vehicle Claim Tribunal,
Vaishali at Hajipur

JUDGMENT

1. The present claim petition arise out of the occurrence, which has been taken place on 06.01.2009 at about 12:25 P.M., when the bus bearing registration No- BR-7P-8282 (hereinafter referred to as offending vehicle) dashed the Jagdish Singh and due to which he succumbed to his injuries (hereinafter referred to as deceased).
2. For the aforesaid occurrence, Lalganj P.S. Case No-04/2009 dated 06.01.2009, U/s 279, 337, 338, 304 (A) of IPC has been registered against the driver of offending vehicle and charge-sheet has also been submitted against the driver Vidyanand Jha of the offending vehicle.
3. It has been contended that on 06.01.2009 at about 13.10 hrs. Jagdish Singh was going to Lalganj Market and reached near Poliya, at that time the drivers of a Shahi Tirupati bus bearing registration no. BR-7P-8282 rashly and negligently driving, dashed his

father, due to which his father fell down on the ground and got severe injury and succumbed to his injuries on the spot. One another person namely Chandrakant Singh @ Sudama Singh also got injured in the same incident.

4. After the process issued against O.P. Nos.-1 & 2, Subodh Kumar Sharma S/o Ramdhar Sharma (owner of the bus bearing registration No-BR-7P-8282) & Vidyanand Jha S/o- Late Laxman Jha (Driver of the offending bus bearing registration No-BR-7P-8282) appeared and filed power on behalf of O.P. No.1, Suodhh Kumar Sharma and also filed a written statement on dated 27.10.2016 that the petitioners are the owner of bus bearing registration no.- BR-7P-8282 and the aforesaid bus of the O.P. No. 1 is not responsible for the alleged accident and no alleged accident took place due to the rash and negligent driving by the driver. This claim case is not maintainable against this O.Ps either in law or facts. The driver of the aforementioned bus namely Vidyanand Jha (O.P. No. 2) is as a driver is having a valid license as expert driving the vehicle and the insured company is insured the vehicle till 18.01.2011 to 17.01.2012. Under the aforesaid policy has liability is any incident found will be the liability of Insurance company, The Oriental Insurance Company Ltd., Dharbhanga. The name, address and occupation of the alleged deceased is not known to the O.P., hence not admitted. The place, date and time of the alleged accident is also not admitted.
5. The O.P. No-3 appeared and filed written statement on 05.07.2017 wherein the O.P. No-3 The Oriental Insurance Company Limited contented that the claim is bad by the principal of estoppel, waiver and acquiescence. The claim is bad for misjoinder of unnecessary parties and nonjoinder of necessary parties. Further fitness certificate is not filed. Notice has not been served to the driver till today. The accident time is not mentioned in para 4 of claim petition. The legal heirship of claimant are subject to strict proof, marriage certificate is not filed in this case, it is necessary in eye of law. The income and age of deceased are subject to strict proof. Income certificate has not been filed. Fitness certificate must be submitted for verification u/s 169(2) of M. V. Act. The allegation made in para 1 to 6 of the claim petition are not admitted by this O.P. and the claimant is put to proof thereof to substantiate these allegation. O.P denies all about the accident alleged have taken place on 06.01.2009 at village main road, Pohiya, Lalganj, Vaishali as stated in para no. 6 of the claim petition and nature of injuries sustained as stated in para 10 and else where in the claim petition. The allegation made in para 9 to 14 and 14 to 21 of the claim petition are not admitted by O.P. and all such allegation are baseless. The original copy of fitness certificate, D.L., registration documents etc of the vehicle shall be directed to be produced and proved in the case, failing which it shall be presumed that there is statutory violation of the condition of policy, if any contemplate u/s 149(2) of M.V. Act and this O.P. will not stand in law. Without prejudice and without admitting any liability whatsoever, the O.P. states that the liability of the O.P. if at all is limited to the extent as provided u/s 149(1) of the M.V. Act. In view of the above submission made above the petition of the claimant for the compensation is fit to be dismissed.
6. On the basis of the pleadings following issue has been framed on 13.08.2019.
 1. Whether the claim case as filed is maintainable ?

2. Whether alleged accident took place on 06.01.2009 about mid day due to rash and negligent driving by the driver of vehicle No. BR-07P-8282 (bus) in which resulted death of Jagdish Singh ?
3. Whether Jagdish Singh had any earning by doing business ?
4. Are O.Ps are liable to pay compensation prayed?
5. Are claimants entitled to get other relief or reliefs?
7. The applicants have adduced the oral evidence as well as documentary evidence to proof its claim such as AW1-Chitraranjan Singh, AW2- Raj Narayan Sharma.
8. Ext-1 : Certified copy of formal F.I.R.
Ext-x:- Postmortem report.
9. O.P. No- 2 has not produced either oral evidence or documentary evidence.

FINDING

10. During the course of argument, the ld. Counsel of o.p no 3 vehemently argued on the issue of maintainability, hence Issue No-I&4 are being taken together under single head, these two issues are the most important issues and which should be decided prior to other issues. Both sides filed written argument. The ld. Counsel for o.p no 3 has argued that claimants had filed a case previously u/s 140 of M.V act vide M.V. claim case no 10/09 independently and same was allowed and claimant had received Rs. 50000/- in pursuance thereof. Under these circumstances, claimant(s) cannot file a petition u/s 166 of M.V act in the light of judgment of Hon'ble Apex court and Hon'ble High court and kept reliance on Misc.Appeal no 462 of 2006 order dt. 31-01-2013, 2013(2)PLJR 123 (Supra) & C. Misc. 420 of 2021(3) dt. 25.04.22. Further the ld. Counsel has argued that claimant can file a petition either on the basis of no fault or fault. As the tribunal once awarded the compensation on the basis of claimant's petition in aforesaid claim case and same is treated as full and final. The claimants have lost their right to file a petition subsequently u/s 166 M.V act. On the other hand, ld. Counsel drawn attention towards column no 18 of form of Application for compensation of Bihar M.V accident claim Tribunal Rules, 1961. Further also submitted that judicial officer has got no jurisdiction to frame law. This tribunal has to answer, whether after availing the compensation u/s 140 of M.V act in the year 2009, the claimants are entitled to maintain an application u/s 166 of M.V act. As per para 16 of the claim petition, it is stated that a claim case bearing no 10/09 had previously been filed and same was allowed. The o.p insurance company has filed the judgment of hon'ble high court Patna as to show that under the aforesaid circumstances, the claim petition in hand is not maintainable. The ld. Counsel of claimant fairly contended that as the format of the claim petition prescribed for additional compensation and by judicial order, ld. Tribunal cannot deny the same. On this issue, this tribunal has gone through the recent judgment of Hon'ble high court titled as Jit Narayan Singh @ Satya Narayan Singh & ors. vs The Bihar State Transport Corporation & ors vide Miscellaneous Appeal 285/2016, wherein the lordship was decided the same facts in issue, hence the above judgment is applicable on the aforesaid facts in issue. Wherein the lordship was pleased to decide the ratio "question of law as to maintainability of petition under section 166 of M.V. act after having exhausted and obtained the relief

prescribed under section 140 of M.V. act.”. the hon’ble court held that “if a claimant who has availed his remedy under sec. 163 A is debarred from proceeding with any further claims on the basis of fault liability in terms of section 166, similar would be the situation of the claimants in the present case who have chosen to avail their remedy under section 140 of the act of 1988, for the legislatures never envisaged that the claimants would shift from one principle to another principle after having received compensation in terms of the option exercised by him/her.

11. Having regard to the aforesaid facts and circumstances and considering the law propounded by the hon’ble high court, Patna, the claimants are not entitled to get compensation under u/s 166 of M.V act (on fault basis) as they obtained the relief u/s 140 of M.V act (on no fault basis). The claimants after obtaining the relief under no fault basis, filed petition after seven years under another principle i.e on fault basis. Hence the petition filed u/s 166 M.V act is not maintainable. Accordingly, these issues are decided against the claimant and in favour of o.p.
12. As far as Issue No-2,3&5 are concerned- there are no requirement to decide these issues as it has been held that the petition itself is not maintainable and the claimants are not entitled to get compensation in the light of judgment of hon’ble high court Patna discussed in preceding para. Accordingly, these issues are being decided against the claimants. Thus , in the result,

ORDER

13. The claim petition of the claimants namely *Chitranjan Singh & Ashwani Singh* are hereby *Dismissed*. Furthermore, office is directed to prepare the award accordingly and after due compliance, the record be consigned to the record-room.

SD/-
(Rajeev Ranjan Singh)
Addl. District Judge-7th
Cum Addl. M.A.C.Tribunal
Vaishali at Hajipur
23.07.2026

Dictated, corrected & signed by me:

SD/-
(Rajeev Ranjan Singh)
Addl. District Judge-7th
Cum Addl. M.A.C.Tribunal
Vaishali at Hajipur
23.07.2026