

IN THE HIGH COURT OF JHARKHAND AT RANCHI

[Civil Miscellaneous Appellate Jurisdiction]

M.A. No. 124 of 2007

Smt. Ram Dulari Devi & Ors. Appellant(s)

Versus

Hukum Singh & Ors. ... Respondent(s)

CORAM :HON'BLE MR. JUSTICE KAILASH PRASAD DEO
(Through :-Video Conferencing)

For the Appellant(s) : Mr. A. K. Sahani, Advocate.

For the Respondent (s) : Mr. Manish Kumar, Advocate

28 / 16.06.2020. Heard learned counsel for the appellants.

The appellants/ claimants have preferred this Misc. Appeal for enhancement against the award dated 12.12.2006 passed by learned 5th Additional Motor Vehicle Accidents Claim Tribunal, Giridih, in M.V. Claim Case No70 of 1995 whereby the learned Tribunal has granted compensation to the tune of Rs.13,22,262/- along with interest @6.5% per annum with effect from 21.12.2001 till the date of final payment within the period of two months from the date of the impugned award. From the entire compensation amount, a sum of Rs.4,22,262/- along with interest is directed to be paid to the claimant, Smt. Ram Dulari Devi (widow of the deceased), Rs.3 Lacs each along with interest shall be paid to claimants, Rabindra Kumar Pandey, Jitendra Kumar Pandey and Smt. Renuka Pandey.

The Opp. Party No.3- the New India Assurance Co. Ltd. is entitled to recover the entire amount of compensation along with interest from the owner of the offending vehicle, Sri Richhpal Singh, S/o Dhani Ram Singh, resident of Village- Mau, Agra Dayal Bagh, P.O. & P.S. Agra, District of Agra, U.P. (owner of truck bearing registration No.U.A.C. 9129).

Learned counsel for the appellants, Mr. A. K. Sahani has submitted that even after issuance of several notice, the owner did not appear, as such, in terms of the order dated 14.06.2017, substituted service of notice under Order V Rule 20 C.P.C. by way of paper publication has been done and to that effect he has filed supplementary affidavit annexing therewith the photocopy of the newspaper cutting.

Learned counsel for the appellants, Mr. A. K. Sahani has further submitted that he will file a supplementary affidavit annexing the copy of the Newspaper. In the newspaper though he has not disclosed the name, but he shall produce on record by filing affidavit.

Learned counsel for the appellants, Mr. A. K. Sahani has submitted orally that it was 'Dainik Jagran' dated 07.08.2017 having wide circulation in the District of Agra, U.P.

Learned counsel for the appellants, Mr. A. K. Sahani has further submitted that owner of the offending vehicle has contested the case in the trial court which will be apparent from Para-3 of the impugned judgment and there is right of recovery against him, but he has not preferred any appeal till date, as such, service of notice may be considered to be validly served.

Considering the same, let the case be listed after two weeks so as to file supplementary affidavit to consider the substituted service of notice to be valid.

Office is directed to verify whether the owner of the offending vehicle has preferred any appeal against the same impugned award. If so, this case be listed along with records of that case.

Learned counsel for the Insurance Company shall also verify whether the owner of the offending vehicle has preferred any appeal or not?

Mr. Pratyush Kumar, learned counsel has undertake on behalf of the Respondent No.5 to bring the owner on record.

(Kailash Prasad Deo, J.)

Sandeep/R.S.