



IN THE HIGH COURT OF ORISSA AT CUTTACK
MACA No.680 of 2014

Binayak Mishra

.... **Appellant**
Mr. J.R. Dash, Advocate

-Versus-

**Divisional Manager, The Oriental
Insurance Co. Ltd. & another**

.... **Respondents**

Mr. S.J. Pradhan, Advocate for
respondent No.1

CORAM:

MR. JUSTICE R.K. PATTANAİK

ORDER

30.04.2026

Order No.

20.

1. Heard Mr. Dash, learned counsel for the appellant and Mr. Pradhan, learned counsel for respondent No.1.

2. No notice has been issued to respondent No.2 any time before and the same is also dispensed with since not necessary.

3. Instant appeal is filed under Section 173 of the Motor Vehicles Act, 1988 (hereinafter referred to as 'the Act') assailing the impugned judgment in MAC No.181 of 2008 of the learned 4th M.A.C.T., Puri on the grounds stated.

4. Mr. Dash, learned counsel for the appellant submits that the application filed under Section 166 of the Act was disposed of and dismissed on contest vis-à-vis respondent No.2 and ex parte against respondent No.1 but without cost. The submission is that the compensation to the petitioner has been denied by the learned Tribunal on the ground of fraud, which is not based on any evidence the therefore, the impugned judgment in the MAC is liable to be interfered with and set aside followed by a remand for fresh hearing and orders. Mr. Pradhan, learned counsel for respondent No.1 on the other hand submits that on a



subjective satisfaction arrived at by the learned Tribunal, such is the conclusion on fraud perpetuated by the petitioner and it was with reference to the FIR. But the Court finds that in connection with the alleged incident, a chargesheet was filed. The petitioner as it appears from the record examined himself as a witness and proved the chargesheet as Ext.2. Mr. Dash, learned counsel for the petitioner would submit that no any fraud was ever alleged by respondent No.1 while filing the W.S. Furthermore, it is submitted that the alleged incident is proved with the filing of Ext.2, hence, it was not right and justified on the part of learned Tribunal to allege collusion and fraud.

5. On a bare reading of the impugned judgment in the MAC, the Court find that the learned Tribunal suspected collusion and fraud referring to a medical document and a copy of the same being produced by the petitioner issued by a hospital. But the said medical document was not marked as exhibit from the side of the petitioner. Referring to the copy of such document, the learned Tribunal reached at such a conclusion that the petitioner was under intoxication and suffered the injuries by a fall and not on account of any accident. On the contrary, a chargesheet is filed. Regarding any such document issued by the hospital, it ought to have been brought to the notice of the learned Tribunal with evidence on record. No such document has been marked as exhibit from the side of respondent No.1 either. To reach at any such conclusion alleging collusion and fraud, according to the Court, necessary evidence shall have to be put on record. Merely on the basis of a copy of the medical document received from the side of the



petitioner, the conclusion of the learned Tribunal alleging fraud is unacceptable. Furthermore, Mr. Dash, learned counsel for the petitioner would submit that there has been closure of hearing couple of times and argument being reopened and while claiming so, the certified copy of the order sheet in MAC No.181 of 2008 is produced. Nonetheless, the Court finds no evidence of fraud being not proved by respondent No.1, rather, learned Tribunal concluded so on the basis of a copy of the medical document received from the side of the petitioner, any such conclusion is merely a surmise and conjecture in absence of evidence received in that regard. The Court is, therefore, inclined to interfere with the impugned decision in the MAC and in favour of a direction for a fresh decision by learned Tribunal on compensation and also with regard to plea of respondent No.1 on fraud, if it is pleaded on record.

6. Accordingly, it is ordered.

7. Consequently, the appeal stands allowed. As a necessary corollary, the impugned judgment in MAC No.181 of 2008 is hereby set aside and in view of the above, the proceeding therein is directed to be restored to the file of learned 4th MACT, Puri for a fresh hearing and disposal in view of the observations made herein above. It is further directed that the petitioner shall appear before the learned Tribunal on 12th May, 2026 to receive further orders to ensure early commencement of hearing.

8. Issue urgent certified copy of this order as per rules.

(R.K. Pattanaik)
Judge