



IN THE HIGH COURT OF ORISSA AT CUTTACK
MACA No.186 of 2019

Ram G.I. CO. Ltd.

.....

Appellant

Mr. G.P. Dutta, Advocate

-versus-

Chhaya Sahu & Ors.

.....

Respondents

Mr. K. Panigrahi, Advocate

(Respondent Nos. 1 to 4)

Ms. P. Jena, Advocate

(Respondent No. 5)

CORAM:

THE HON'BLE MR. JUSTICE BIRAJA PRASANNA SATAPATHY

ORDER

27.03.2025

Order No.18

1. This matter is taken up through hybrid mode.
2. Heard Mr. G.P. Dutta, learned counsel appearing for the Appellant-Company, Mr. K. Panigrahi, learned counsel appearing for the Claimants-Respondent Nos.1 to 4 and Ms. P. Jena, learned counsel appearing for Respondent No. 5.
3. The present appeal has been filed inter alia by the Appellant-Company challenging Judgment dtd.05.10.2018 so passed by the 2nd Addl. District Judge-cum-6th MACT, Khurda in MACT Case No. 51 of 2014. Vide the said judgment the Tribunal allowed the application filed by the Claimants-Respondents by passing an award to the extent of Rs.7,42,000/- along with interest @ 6% per annum payable from the date of filing of the claim application.
4. In support of the appeal learned counsel appearing for the Appellant-Company contended that in the First Information Report made by the Informant after the accident took place on 14.02.2014,



the vehicle number was indicated as OR-10-F-4246. It is contended that after such registration of the matter in Jankia P.S. Case No. 132 dtd.14.06.2014, in the 161 statement recorded by the Police, the witnesses also indicated the vehicle number as OR-10-F-4246. In the requisition made by the Police after registration of the F.I.R. on 14.06.2014, the vehicle number was also indicated as OR-10-F-4246.

4.1. It is however contended that subsequently the offending vehicle OR-10-A-1806 was seized by the I.O. of the case on 30.10.2014 and the said vehicle was charge sheeted along with the driver of the offending vehicle as an accused.

4.2. It is contended by the learned counsel appearing for the Appellant that since all through the information was lodged that vehicle No. OR-10-F-4246 was involved in the accident; there was no occasion on the part of the I.O. to charge sheet the offending vehicle No. OR-10-A-1806 and by making the driver of the offending vehicle as an accused. It is also contended that I.O. of the case on being examined as OPW-1 on 19.04.2018 submitted as follows in Para 4:-

“I submitted charge sheet on 04.04.2015, where I have implicated the driver of the truck bearing Regd. No. OR-10-A-1806 as accused and have shown the said truck as offending truck. During course of my investigation, it came to my knowledge that the truck No. OR-10-A-1806 dashed against the vehicle of the deceased Sanei Sahoo and another Sankar Barik. However inadvertently the injured noted down the registration number of another truck bearing Regd. No. OR-10-F-4246 and accordingly the F.I.R. was lodged. It is a fact that such fact has not been categorically mentioned in the chargesheet.”



4.3. It is contended that in view of the evidence laid by OPW 1 coupled with the information lodged in the F.I.R. and statement of the witnesses recorded under Sec. 161 Cr.P.C., since the vehicle number was indicated as OR-10-F-4246, I.O. of the case without having any sufficient materials, should not have charge sheeted vehicle No. OR-10-A-1806, basing on which the Tribunal allowed the claim. It is accordingly contended that the impugned award needs interference of this Court.

5. Mr. K. Panigrahi, learned counsel appearing for the Claimants-Respondents on the other hand contended that the F.I.R. in question was lodged by a person who is not an eye witness to the alleged occurrence. It is also contended that the witnesses examined under Sec. 161 Cr.P.C. are also not eye witness to the alleged occurrence.

5.1. Since in course of investigation the I.O. found that the offending vehicle involved in the accident bears Registration No. OR-10-A-1806, the said vehicle was seized on 30.10.2014 and accordingly after completion of the investigation, the charge sheet was filed by charge sheeting the offending vehicle bearing Registration No. OR-10-A-1806 and the driver of the said vehicle was made as an accused.

5.2. Learned counsel in support of involvement of the offending vehicle relied on the evidence of P.W. 2. P.W. 2 in his cross-examination by the Appellant, stated as follows in Para 6 & 7:-

“06. My home is at about 11 Kms away from the spot of accident. I know the petitioners since seven years. I also know the deceased husband of the petitioner Chhaya Sahoo since seven years. I was coming on the date of accident to visit my



son, who was prosecuting his study at Maharaja Technical College of Khurda. I was coming by my own motor cycle.

07. The alleged accident took place 100 to 150 meters ahead of Badapokharia Chhak. The offending truck overtook me and dashed against the motor cycle of the deceased in my front. The offending vehicle was parked for a little time and then the driver drove the vehicle and went away. Badapokharia Chhak is a big and busy place. The alleged accident took place at 9 A.M. I can not say the registration number of the accidental motor cycle. I halted at the spot for half an hour and I also informed the matter of accident to the family members of the deceased. I have not lodged any F.I.R on the alleged accident. Police had examined me in a police case initiated on the alleged accident.”

5.3. It is also contended that OPW-1, in her evidence in Para 2 & 7 has stated as follows:-

“02. It is a fact that the F.I.R discloses that a truck bearing Regd. No.OR-10-4246 dashed against the bike of one Sanei Sahoo, who died at the spot. One Sankar Barik, who was coming with Sanei fell down and sustained injury on his person. I was entrusted with the investigation of the said accident case.

Xxx

xxx

xxx

07. I have examined many witnesses in connection to Jankia P.S. Case No.132 of 2014, where the witnesses stated that truck No.OR-10-A-1806 is involved in the accident. That is why, I have seized the above truck and its documents, left the same in zima of its owner and entangled the driver of the said truck as accused.”

5.4. It is contended that since the I.O. of the case after conducting the investigation, charge-sheeted the offending vehicle which has been insured with the Appellant-Company, in view of the recent decision of the Hon’ble Apex Court in the case of **Ranjeet & Anr.**



Vs. Abdul Kayam Neb & Anr., the Tribunal has not committed any wrong in holding the Appellant liable to pay the compensation. Hon'ble Apex Court in Para 4 of the said order has held as follows:-

“4. It is settled in law that once a charge sheet has been filed and the driver has been held negligent, no further evidence is required to prove that the bus was being negligently driven by the bus driver. Even if the eye witnesses are not examined, that will not be fatal to prove the death of the deceased due to negligence of the bus driver.”

5.5. Making all these submissions learned counsel appearing for the Claimants-Respondents contended that no illegality or irregularity can be found with the impugned award and the appeal be rejected.

6. Ms. P. Jena, learned counsel appearing for the Owner-Respondent No. 5 on the other hand contended that since the offending vehicle is duly insured with the Appellant-Company, the Tribunal has rightly passed the award.

7. Having heard learned counsel appearing for the Parties and considering the submissions made, this Court finds that Claimants-Respondent Nos. 1 to 4 moved the Tribunal in MACT Case No. 51 of 2014 claiming compensation for the death of the deceased in a road accident, which took place on 14.06.2014. Even though in the F.I.R. and so also in the statement recorded under 161 Cr.P.C., the vehicle number was indicated as OR-10-F-4246, but it is found that informant of the aforesaid case is not an eye witness to the alleged occurrence.

7.1. It is also found that in course of investigation when the I.O. of the case found that the offending vehicle is involved in the accident,



the vehicle was seized on 30.10.2014 and after conducting the investigation charge sheet was filed against the offending vehicle on 04.04.2015. The driver of the offending vehicle was made as an accused in the said case. This Court also after going through the evidence of OPW 1, finds that the said witness in her deposition clearly submitted that even though the vehicle No. OR-10-F-4246 was indicated in the F.I.R. and so also in the 161 statement of the witnesses, but subsequently in course of investigation the offending vehicle came to the picture and accordingly the said vehicle was seized and charge-sheeted.

7.2. Placing reliance on the decision as cited (supra) and the materials available on record, this Court is of the view that since the offending vehicle has been charge-sheeted and the driver of the offending vehicle has been made an accused, no illegality or irregularity can be found with the judgment dtd.05.10.2018 so passed by the learned 2nd ADJ-cum-6th MACT, Khurda in MACT Case No. 51 of 2014. Therefore, this Court is not inclined to interfere with the said judgment.

8. Accordingly, the appeal stands dismissed.

(BIRAJA PRASANNA SATAPATHY)

Judge

Sneha

Signature Not Verified

Digitally Signed
Signed by: SNEHANJALI PARIDA
Reason: Authentication
Location: High Court of Orissa, Cuttack
Date: 02-Apr-2025 16:30:03

