



IN THE HIGH COURT OF ORISSA AT CUTTACK
MACA No.698 of 2024

***M/s. Reliance General
Insurance Co., Ltd.***

.....

Appellant

Mr. G.P. Dutta, Advocate

-versus-

Rabi Mahakud & Another

.....

Respondents

*Mr. K.C. Mishra, Adv. for Resp.
No.1*

*Mr. B.S. Panigrahi, Adv. For
Respondent No.2*

CORAM:
THE HON'BLE MR. JUSTICE BIRAJA PRASANNA SATAPATHY
ORDER
14.02.2025

Order No. 04 **I.A. No.1374 of 2024**

1. This matter is taken up through hybrid mode.
2. Though this matter was not on the board on being mentioned, the matter was taken up.
3. Heard learned counsel appearing for the Parties.
4. This is an application seeking time to make the statutory deposit.
5. Statutory deposit has already been paid, the prayer as made in the I.A has become infructuous.
6. Accordingly, the I.A stands disposed of.

(BIRAJA PRASANNA SATAPATHY)
Judge

I.A. No.1617 of 2024

5. 1. Heard.



2. This is an application under Section-5 of the Limitation Act.
3. Considering the grounds taken, the delay in filing of the appeal is condoned subject to payment of cost of Rs.1000/- to be deposited before the Orissa High Court Bar Association Welfare Fund by 19.02.2025.
4. Accordingly, the I.A. stands disposed.

(BIRAJA PRASANNA SATAPATHY)
Judge

MACA No.698 of 2024

06.1. Heard learned counsel appearing for the Parties.

2. This appeal has been filed by the Appellant-Company challenging Judgment dtd.19.12.2023 so passed by the learned Addl. District Judge-cum-3rd MACT, Boudh in MAC Case No.44 of 2018.

3. Learned counsel for the appellant contended that even though the Tribunal came to a conclusion that the driver of the offending vehicle had no valid driving licence but while disposing the matter with passing of the award no right of recovery was allowed in favour of the appellant-company. Finding of the Tribunal in that regard reads as follows:-

“Police has not seized the driving licence of driver Duryodhan Mandal and hence it is well proved that he had no DL prior to involved bus”

4. It is accordingly contended that in view of such clear finding of the Tribunal right of recovery should have been allowed.



5. Mr. K.C. Nayak, learned counsel for the Respondent No.1 on the other hand contended that claim relates to the injury sustained by the claimant-Respondent No.1 and only an award of Rs.20,167/- has been awarded along with interest @ 6% payable from the date of application till its realisation. But by filing the present appeal, the award is yet to be satisfied.

6. Having heard learned counsel appearing for the Parties and considering the submissions made and in view of the clear finding available in the impugned judgment that the driver of the offending vehicle was not having valid DL, this Court without interfering with the impugned award while disposing the appeal allows right of recovery as against the owner-Respondent No.2. However, it is observed that if any such application is moved by the appellant to recover the amount from the owner-respondent-2, shall be given due opportunity of hearing by the Tribunal and the matter will be decided in accordance with law.

6.1. This Court accordingly directs the Appellant Company to deposit the award amount along with interest as awarded within a period of 8(eight) weeks before the Tribunal. On such deposit of the awarded amount, the same shall be released in favour of the Claimant/Respondent No.1 in full.

6.2. However, it is observed that if the compensation amount as directed will not be deposited by the Appellant-Company within the aforesaid time period of eight (8) weeks, the compensation amount of Rs.20,167/- shall carry interest @ 7% per annum payable for the period starting from the expiry of the period of eight (8) weeks till its payment.



6.3. It is further observed that only after deposit of the entire amount as directed, Appellant-Company shall be permitted to take back the account Payee cheque which has lost its validity on proper identification.

7. The appeal is accordingly disposed of.

(BIRAJA PRASANNA SATAPATHY)
Judge

Basudev