



IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA No.608 of 2020

In the matter of an application under Section 173 of the Motor Vehicles Act, 1988.

***Divisional Manager,
Oriental Insurance Co.
Ltd.***

....

Appellant

-versus-

***1. Samari Banchhor
2. Mukesh Jain***

....

Respondents

For Appellant : Ms. Sudhamayee Das, Advocate

For Respondents : Mr.Jagabandhu Sahu, Advocate
(R-1)

CORAM: JUSTICE V. NARASINGH

Date of hearing : 05.08.2025

Date of Judgment : 19.08.2025

V. Narasingh, J. The present MACA has been preferred by the Insurance Company assailing the award dated 25.03.2020 passed by the learned M.A.C.T-I, Balangir in M.A.C No.75 of 2015 whereby learned Tribunal directed for payment of compensation of Rs.4,52,567/- along with interest at the rate of 7% per annum to the Claimant from the date of filing of



the claim case till the date of payment within three months, failing which, the award shall carry interest at the rate of 8% per annum.

2. It is the case of the Claimant (Respondent No.1 herein) that while she was going from village Gudighat to her village Patrapali by a Commander Jeep bearing registration number OR-03-8244 near Bali Khamar Chhak, one 407 Mini Truck bearing registration number OR-08-8819 coming from opposite direction dashed against the Commander Jeep as a result of which, she sustained fracture injuries on her right leg and other multiple injuries on her body. She was immediately shifted to C.H.C., Kantabanji. Thereafter, she was shifted to District Headquarters Hospital, Balangir for better treatment. Then she was referred to Sum Hospital, Bhubaneswar where she was treated as an indoor patient from 20.09.2014 to 30.10.2014. Since she was a tailor and earning Rs.10,000/- per month and spent a lot of money for her treatment, she filed the aforesaid case claiming compensation of Rs.6,00,000/- from the Insurance Company.

In response to the notice, the present Appellant- Insurance Company appeared before the learned Tribunal and resisted the claim. The owner of the offending vehicle was set ex parte. On the



pleadings of the parties, the following issues were framed:

- i. Whether the MAC case maintainable ?
- ii. Whether the accident took place due to rash and negligent driving of the driver of the 407 Mini Truck bearing registration No.OR-08-8819 near village Bali Khamar Chhak (Gudighat) on 19.09.2014 at about 7 P.M ?
- iii. Whether due to that accident one Samari Banchhor sustained injuries ?
- iv. Whether O.Ps or any of the O.P is/are liable to pay compensation ?
- v. Whether the petitioner is entitled to get compensation, if so, what would be the extent ?
- vi. What other relief or reliefs the petitioner is entitled to ?”

In order to substantiate his claim, injured Claimant examined herself as P.W.1 and her husband as P.W.2. Documents were marked as Exts.1 to 14.

Neither oral nor documentary evidence was adduced on behalf of the Insurance Company.

On an analysis of the evidence on record, learned Tribunal awarded a compensation of Rs.4,52,567/- with interest at the rate of 7% from the date of filing of the claim petition i.e. 23.06.2015 till the date of payment, failing which, the compensation amount will carry interest at the rate of 8% per annum.



3. Impugned award is assailed mainly on the ground that the vehicle in question had a permit from 5.5.2009 to 4.9.2014 and on the date of unfortunate accident on 19.9.2014, he had no valid permit. As such there being violation of statutory policy condition, the claim application ought to have been rejected qua the Insurance Company. To fortify her submission, learned counsel for the Appellant has relied on the judgment of the Apex Court in the case of **Amrit Paul Singh and another vrs. Tata Aig General Insurance Company Limited and others**¹.

4. It is apt to note that in the case at hand no rebuttal evidence was adduced on behalf of the Insurance Company to substantiate its claim that the vehicle in question had no valid permit on the date of unfortunate accident. As noted by the learned Tribunal no petition even under Section 170 of the Motor Vehicles Act, 1988² was filed by the Appellant-Insurance Company before the learned Tribunal.

5. For convenience of reference, Section 170 of the M.V Act, 1988 is quoted hereunder:

"170. Impleading insurer in certain cases. -
Where in the course of any inquiry, the Claims Tribunal is satisfied that -

¹ (2018) 7 SCC 558

² M.V. Act, 1988



(a) there is collusion between the person making the claim and the person against whom the claim is made, or

(b) the person against whom the claim is made has failed to contest the claim, it may, for reasons to be recorded in writing, direct that the insurer who may be liable in respect of such claim, shall be impleaded as a party to the proceeding and the insurer so impleaded shall thereupon have, without prejudice to the provisions contained in sub-section (2) of [section 150], the right to contest the claim on all or any of the grounds that are available to the person against whom the claim has been made."

6. Learned counsel for the Claimant, Sri Sahu submitted that the case at hand does not warrant any interference by this Court.

7. As noted above, no rebuttal evidence was adduced and the ground which is pressed into service before this Court that the vehicle was not having valid permit was never urged before the learned Tribunal. The same assumes significance in view of no application having been filed under Section 170 of the M.V Act.

8. On consideration of the evidence on record, it is seen that learned Tribunal has taken into account that the policy covered the period of accident and since no ground was canvassed regarding lack of permit there was no scope for the learned Tribunal to arrive at a finding regarding the same.



9. Keeping in view the judgment relied on by the learned counsel for the Appellant-Insurance Company in the case of **Amrit Paul Singh (supra)**¹, it is seen that the Apex Court after discussing the significance of a permit in the light of the provisions contained in Section 66 as well as 66(1) of the Motor Vehicles Act, 1988 and exception thereto upheld the doctrine of pay and recover relying on the judgments of the Apex Court in the case of **National Insurance Co. Ltd. vrs Swaran Singh**,³ and **Lakhmi Chand vrs. Reliance General Insurance**⁴.

10. In the written statement, a specific ground has been taken regarding lack of permit. Considering the same, this Court is persuaded to hold that an opportunity should be given to the Appellant-Insurance company which is a public sector undertaking to pay and recover the same from the owner of the offending vehicle and accordingly it is so directed.

11. MACA is thus disposed of affirming the award of compensation to the tune of Rs.4,52,567/- along with interest at the rate of 7% per annum from the date of filing of the application i.e. 23.6.2015 till the date of payment.

3 (2004) 3 SCC 297

4 (2016) 3 SCC 100



Leave is granted to the Insurance Company to seek recovery of the amount from the owner of the offending 407 Mini Truck bearing registration number OR-08 8819.

12. The compensation amount along with interest at the rate of 7% per annum shall be paid within a period of eight weeks from the date of receipt of a copy of this judgment, failing which, it will entail interest at the rate of 8% per annum from the date of the judgment till the date of payment, as directed by the learned Tribunal.

13. Within eight weeks of production of proof regarding deposit of the modified amount before the Tribunal, statutory deposit along with accrued interest shall be refunded to the Insurance Company on proper application.

14. The MACA is accordingly disposed of. No costs.

15. Before parting with the case, this Court places on record its appreciation for the assistance rendered by the learned counsel for the Appellant-Insurance Company, Ms. Sudhamayee Das.

(V. NARASINGH)
Judge

Orissa High Court, Cuttack
Dated the 19th August, 2025/Pradeep