



IN THE HIGH COURT OF ORISSA AT CUTTACK
MACA No.172 of 2024 & MACA No.768 of 2024

Kabiraj Das and Another **Appellants**
Mr. A.K. Mohanty, Advocate
-versus-

Subrat Kumar Swain and Anr. **Respondents**
Ms. S. Das, Advocate
for R-2

CORAM:
JUSTICE BIRAJA PRASANNA SATAPATHY

ORDER
24.07.2025

Order No.

- 03.** 1. This matter is taken up through Hybrid Arrangement (Virtual/Physical) Mode.
2. Heard learned counsel for the parties.
3. Since both the appeals have been filed against judgment dated 31.10.2023 so passed in MAC No.213 of 2016, both the appeals were heard analogously and disposed of by the present common order.
4. It is the main contention of the learned counsel for the Appellant-Insurer that after the accident which took place on 30.09.2015, FIR was lodged by implicating Vehicle No.OD-25-A-6803 to have caused the accident. It is also contended that Vehicle No. OD-25-A-6803 was charge-sheeted by the I.O. while submitting the final form. It is vehemently contended that the vehicle which was charge-sheeted was never insured with the appellant-company and no policy was also exhibited in that regard.



4.1. It is contended that since the offending vehicle so charge-sheeted was never insured with the Appellant-Company, Appellant-Company could not have been saddled with the liability. But the Tribunal without proper appreciation of the same, held the Appellant-Insurer liable to pay the compensation. It is accordingly contended that the impugned judgment is not sustainable in the eye of law.

5. Mr. A.K. Mohanty, learned counsel for the claimant-appellant in MACA No.172 of 2024 on the other hand contended that though the offending vehicle bearing Regd. No.OD-25-A-6803 was charge-sheeted but since deceased was a pillion rider in the Motor Cycle bearing Regd. No.OD-02-J-9812 and the same was duly insured with the appellant company, the appellant-insurer has been rightly saddled with the liability and it requires no interference. On the other hand claimant is entitled to get more compensation with enhancement of the award.

6. Having heard learned counsel for the parties and considering the submissions made, this Court finds that FIR was lodged with the allegation that the accident was caused by the offending vehicle OD-25-A-6803, while the deceased was moving in the Motor Cycle bearing Regd. No.OD-02-J-9812 as a pillion rider. No documents having been proved and exhibited showing that the offending vehicle OD-25-A-6803, was insured with the appellant-insurer in MACA No.768 of 2024, it is the view of this Court that in absence of any such policy being exhibited and with the FIR allegation and the charge sheet so filed, appellant-insurer could not have been saddled with the liability.



Therefore, this Court while disposing both the appeals, is inclined to quash judgment dated 31.10.2023 passed in MAC NO.213 of 2016. While quashing the same, this Court remits the matter to the Tribunal to take a fresh decision in accordance with law and by giving due opportunity of hearing to all concerned. All the parties to the proceeding be also permitted to take any fresh plea and adduce evidence in that regard.

6.1. Statutory deposit made in MACA No.768 of 2024 be refunded.

7. Both the appeals stands disposed of.

(Biraja Prasanna Satapathy)
Judge

Basudev

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