



IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA No.594 OF 2024

**The Branch Manager,
Oriental Insurance Co. Ltd.**

Appellant
Mr. P.K. Mahali, Advocate

-versus-

Mamina Das & Others

....

Respondents
Mr. P.K. Mishra, Adv.
(for Respondent Nos.1 & 2)

**CORAM:
HON'BLE MR. JUSTICE BIRAJA PRASANNA SATAPATHY**

**ORDER
03.03.2025**

Order No.

- 05.** 1. These matters are taken up through Hybrid Arrangement (Virtual/Physical) Mode.
2. Perused the tracking report.
3. Since notice has been duly served on Respondent No.3, notice against the said respondent is treated as sufficient.
4. Heard learned counsel for the parties.
5. This appeal has been filed by the Appellant–Company challenging Judgment dtd.18.04.2024 so passed by the learned Second M.A.C.T (SD), Berhampur, Ganjam in MAC Case No.62 of 2023. Vide the said Judgment, the Tribunal allowed the compensation at Rs.26,21,848/- along with interest @ 6% per annum payable from the date of filing of



the claim application till its realization. The Tribunal however allowed right of recovery against Respondent No.3-owner.

6. In support of the appeal, learned counsel for the appellant company contended except P.W.1, who is the wife of the deceased, no eye witness was examined to prove the rash and negligent driving of the driver of the offending vehicle. Since no eye witness was examined by the claimant that due to rash and negligent driving of the driver of the offending vehicle, the accident occurred, the claim application under Section 166 of the M.V. Act was not maintainable.

6.1. It is further contended that no charge sheet was filed against the alleged offending vehicle and F.R was submitted by showing that due to sole negligence of the deceased himself, the accident occurred. But while considering the protest petition, learned SDJM in G.R. Case No.591 of 2020, held the offending vehicle to have caused the accident. It is also contended that the driver of the alleged offending vehicle was only authorized to drive LMV and he had no valid driving license to drive the vehicle on public road. Hence, the Insurance company ought to have been exonerated from its liability. It is also contended that right of recovery so allowed by the Tribunal against owner-Respondent No.3 be confirmed, as challenging such right of recovery owner/Respondent No.3 has not filed any appeal against the impugned judgment, if this Court interferes with the quantum so awarded.



7. Even though learned counsel for the claimants-respondents supported the impugned award, but in course of hearing contended that the claimants-respondents will be satisfied if this Court will reduce the compensation amount to Rs.23,50,000/- along with interest @ 6% per annum payable from the date of filing of the claim application till its realization.

8. Mr. P.K. Mahali, learned counsel appearing for the Appellant-company left the aforesaid proposition made by the learned counsel for the Claimant-Respondent Nos.1 & 2 to the discretion of this Court.

9. Having heard learned counsel appearing for the Parties, considering the submissions made, this Court while disposing both the appeals held the claimant entitled to get compensation amount of Rs.23,50,000/- with interest @ 6% per annum payable from the date of filing of the application till its realization. While holding so, this Court directs the Appellant-Company to deposit the aforesaid compensation amount along with interest within a period of eight (8) weeks from the date of receipt of this order. On such deposit of the amount, the Tribunal shall disburse the same in favour of the Claimant-Respondent Nos.1 & 2 proportionately in terms of the Judgment passed on 18.04.2024.

9.1. It is also observed that if any such application is moved by the Appellant-company to recover the amount from the owner-respondent No.3, the said Respondent shall be given



due opportunity of hearing by the Tribunal and the application so filed be decided in accordance with law.

9.2. It is further observed that if the Appellant-Company will fail to deposit the compensation amount within the time stipulated here-in-above, the compensation amount of Rs.23,50,000/- shall carry interest @7% per annum payable from the date of expiry of the period of 8 (eight) weeks till it is so deposited.

9.3. It is observed that only after deposit of the amount as directed, Appellant-Company shall be permitted to take refund of the statutory deposit along with accrued interest, if any, on proper identification.

The MACA accordingly stands disposed of.

(Biraja Prasanna Satapathy)
Judge

sangita

Signature Not Verified

Digitally Signed
Signed by: SANGITA PATRA
Reason: authentication of order
Location: high court of orissa, cuttack
Date: 11-Mar-2025 17:41:13

