



IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA No.993 of 2023 & MACA No.997 of 2023

MACA No.993 of 2023

Sulochana Pradhan & Others ... Appellants

Mr. B.P. Mohanty, Advocate

-versus-

Amarjit Singh & Another ... Respondents

Mr. N.K. Mishra, Sr. Advocate for R.2

MACA No.997 of 2023

**D.M., M/s. National Insurance ... Appellant
Co. Ltd., Bhubaneswar**

Mr. N.K. Mishra, Sr. Advocate

-versus-

Sulochana Pradhan & others ... Respondents

Mr. B.P. Mohanty, Advocate
for Res. Nos.1 to 5

**CORAM:
JUSTICE BIRAJA PRASANNA SATAPATHY**

**ORDER
13.03.2025**

Order No.

- 06.** 1. This matter is taken up through Hybrid
Arrangement (Virtual/Physical Mode).



2. Heard learned counsel for the parties. Since both the appeals arise out of a common judgment, both were heard analogously and disposed of by the present common order.

3. While MACA No.993 of 2023 has been filed by the appellant/claimants seeking enhancement of the award, MACA NO.997 of 2023 has been filed by the insurer challenging the award so passed by the learned 4th MACT, Puri in MAC Case No.448 of 2023.

4. While assailing the impugned judgment, learned Senior Counsel for the appellant in MACA No.997 of 2023, contended that initially challenging the nil award passed by the Tribunal, the matter was carried to this Court by the claimants in W.P.(C) No.21460 of 2014. It is contended that the aforesaid award was set aside by this Court vide order dated 16.01.2023 and the matter was remanded to the Tribunal for fresh disposal.

4.1 It is contended that after such remand of the matter vide order dated 16.01.2023, the appellant company was never noticed and in absence of any



fresh notice, the appellant was set ex parte vide order dated 18.05.2023. Thereafter, the matter was heard finally on 5.7.2023 and the impugned judgment was passed on 17.07.2023.

4.2 It is contended that since after remand of the matter by this Court, neither the appellant was noticed nor given an opportunity of hearing, the impugned judgment is not sustainable in the eye of law and it needs interference of this Court.

5. Mr. B.P. Mohanty, learned counsel for the appellant in MACA No.993 of 2023 on the other hand contended that after remand of the matter, the earlier engaged counsel for the insurer participated in the proceeding and his name was reflected as the counsel for the appellant/insurer in the impugned judgment. It is contended that since the earlier engaged counsel appearing for the insurer participated in the proceeding and accordingly the matter was disposed of vide the impugned judgment dated 17.07.2023, no illegality or irregularity can be found to the impugned judgment. It is also contended that basing on the



grounds taken in MACA No.993 of 2023, the award needs enhancement.

6. To the submission made by Mr. Mohanty, Mr. Mishra, learned Senior Counsel appearing for the appellant in MACA No.997 of 2023 contended that after remand of the matter the earlier engaged counsel had no authority to appear on behalf of the appellant company and no such permission was ever accorded to him to appear on behalf of the appellant/insurer. It is contended that since the matter was remanded vide order dated 16.01.2023 of this Court, prior to taking up of the matter, the appellant should have been noticed and it is a mandatory requirement. As the same has not been followed, the impugned judgment is not sustainable in the eye of law.

7. Having heard learned counsel for the parties and considering the submission made by the parties, this Court finds that initially when the Tribunal passed a nil award, the same was assailed by the claimants before this Court in W.P.(C) No.21460 of 2014. It is not disputed by learned counsel for the parties that



the matter was remanded to the Tribunal vide order dated 16.01.2023.

7.1 This Court taking into account the order of remand, is of the view that after such remand of the matter by this Court, the Tribunal should have issued notice to the appellant to appear and to participate in the proceeding. The action of the Tribunal in asking the previously engaged counsel to participate on behalf of the appellant, as per considered view that is not permissible.

7.2 In view of such illegality, which is apparent on the face of the impugned judgment, this Court is inclined to quash the impugned judgment dated 17.07.1993 passed by the learned 4th MACT, Puri in MAC Case No.448 of 1993. While quashing the same, this Court remits back the matter to the Tribunal to decide the case afresh by giving opportunity of hearing to all concerned. Sine at the instance of insurer this order is being passed, the appellant in MACA No.997 of 2023 is directed to appear before the Tribunal along with a copy of this order on 26.03.2025 and on his



appearance before the Tribunal, the Tribunal shall take up the issue and fix a date of hearing. Since the claim is of the year 1993, this Court directs the Tribunal to dispose of the same, within a period of three months from the date of appearance of the appellant. None of the parties will be given any adjournment in course of disposal of the matter.

8. Both the appeals are disposed of accordingly.

(Biraja Prasanna Satapathy)
Judge

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Signature Not Verified

Digitally Signed
Signed by: AMIT KUMAR MOHANTY
Reason: Authentication
Location: HIGH COURT OF ORISSA, CUTTACK
Date: 18-Mar-2025 11:22:28

