



IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA No.333 of 2006

CNR No. ODHCO10014232006

New India Assurance Co. Ltd.

.....

Appellant

Represented by Adv. –
Ms. Rimjhimbala Pati,
on behalf of Mr. Surath
Ray, Advocate

-versus-

***1. Makunda Pujari, since dead
his L.R. Doitari Pujari***

.....

Respondents

***2. The Project Manager,
Trafalagar Satyam Shankara
Narayana (A Joint Venture
Company), Murandam,
Koraput***

3. Mohan Ch. Analia

CORAM:

MR. JUSTICE ADITYA KUMAR MOHAPATRA

ORDER

03.09.2026

Order No.

MACA No.333 of 2006 & I.A. No.546 of 2006

13. 1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. Heard the learned counsel for the Appellant-Insurance Company. Perused the appeal memo as well as the grounds taken therein.
3. On careful scrutiny of the record, it appears that the Appeal was presented by the Insurance Company with a



delay of 14 days. Accordingly, Misc. Case No.546 of 2006 has been filed with a payer for condonation of delay. Although notices were issued to the Respondents-Claimants, however, the same could not be duly served on any of the Respondents.

4. Considering the fact that the award is of the year 2005, i.e. the judgment was delivered on 24.12.2005 in M.J.C. No.28/2000 by the learned Additional District Judge-M.A.C.T., Jeypore and in the meantime more than two decades have already elapsed, this Court, while considering the limitation application, took up both limitation application as well as the appeal on merits for admission. In the event it is found that there is merit in the appeal, then the Court will proceed for condonation of delay by ensuring notice is made sufficient on limitation matter.

5. On perusal of the appeal memo and the grounds stated therein, further on careful analysis of the submissions made by the learned counsel for the Appellant, this Court found that the present appeal filed assailing the impugned judgment dated 24.12.2005 passed by the learned Additional District Judge-M.A.C.T., Jeypore in M.J.C. No.28/2000, which arises out of M.J.C. No.16/1999, thereby awarding a total compensation of Rs.2,00,000/- in favour of the Claimant along with interest @ 6% per annum from the date of addition of the Petitioner before the Tribunal as a legal



heir, i.e. 14.09.2005. Being aggrieved by quantum of compensation that has been awarded by the learned Tribunal and further accepting the sole Claimant, who happens to be brother of the deceased, as the legal heir of the deceased, the Appellant-Insurance Company has filed this appeal under Section 173 of M.V. Act, 1988 with a prayer to set aside the impugned award/judgment dated 24.12.2005.

6. Learned counsel appearing for the Appellant-Insurance Company contended that the D.L. of the driver was a fake one. Therefore, the liability should have been saddled with the owner of the vehicle, instead of the Insurance Company. In the aforesaid context, learned counsel for the Appellant referred to Exhibit-B & C filed by the Appellant-Insurance Company. On such ground, learned counsel for the Appellant-Insurance Company challenged the fixation of liability with the Appellant-Insurance Company.

7. On perusal of the order sheets as well as the office note, it appears that despite several efforts, notice could not be duly served on the Respondent No.1-Claimant. On the contrary, two decades have elapsed in the meantime. So far the finding with regard to the accident, and the death of the deceased as well as the income of the deceased is concerned, this Court found that the same has not been disputed by the Appellant-Insurance Company and that there is no infirmity with regard to the aforesaid finding.



Thus, there exists no valid ground to interfere with the quantum of compensation that has been awarded by the Tribunal. Accordingly, that part of the award stands confirmed. Therefore, the appeal with regard to the quantum of compensation to be paid by the Appellant-Insurance Company to the Respondent No.1 stands dismissed on limitation as well as on merit.

8. With regard to the fixation of liability on the Insurance Company, particularly in view of the assertion made by the learned counsel appearing for the Insurance Company that the D.L. of the driver was fake one and in that regard they have already adduced evidence before the Tribunal, which has been marked as Exhibit-“B” & “C”, this Court, by condoning the delay in presentation of the appeal, deems it proper to remand the matter back to the Tribunal to be examined in the aforesaid limited aspect.

9. The matter is remitted back to the learned Tribunal for determining the question of liability by taking into consideration the alleged documents submitted by the Appellant-Insurance Company with regard to the D.L. and, the exhibits marked on behalf of the Insurance Company. Further, while deciding the fixation of liability, the learned Tribunal shall provide an opportunity of hearing to the owner of the vehicle. In the event it is found that the D.L. produced before the Tribunal in respect of the driver of the



offending vehicle is fake, then it is open to the learned Tribunal to consider the grant of right of recovery to the Appellant-Insurance Company from the owner of the vehicle in accordance with law.

10. The awarded amount be deposited by the Appellant-Insurance Company with the Tribunal within a period of eight weeks from today, if the same has not yet been deposited in the meantime.

11. On production of a copy of the acknowledgment evidencing deposit of the awarded amount, the registry shall release the statutory deposit along with accrued interest in favour of the Appellant-Insurance Company, on an application being filed by the learned counsel for the Appellant-Insurance Company in that respect.

12. Accordingly, the MACA as well as I.A. stand disposed of.

(A.K. Mohapatra)
Judge

Debasis

Signature Not Verified

Digitally Signed
Signed by: DEBASIS AECH
Designation: SECRETARY
Reason: Authentication
Location: ORISSA HIGH COURT
Date: 09-Sep-2026 15:30:04

