



IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA No.415 of 2025

CNR No. ODHC010206932025

An Appeal under Section 173(1) of the Motor Vehicles Act, 1988.

***Manager, T.P. Hub, The
Oriental Insurance Co.
Ltd., BBSR***

Appellant

Represented by Adv. –
M/s.Somnath Roy

-versus-

***Laxmipriya Sahoo &
Ors.***

Respondents

Represented by Adv. –
M/s.Kapila Charan
Nayak, H.S.Sarangi (for
R-1 to R-4)

M/s.Soubhagya Kumar
Dash, S.K. Tripathy (for
R-5)

MACA No.416 of 2025

CNR No. ODHC010206992025

***Manager, T.P. Hub, The
Oriental Insurance Co.
Ltd., BBSR***

Appellant

Represented by Adv. –
M/s.Somnath Roy

-versus-

Sebati Pradhan & Ors.

Respondents

Represented by Adv. –
M/s.Kapila Charan Nayak,
H.S.Sarangi (for R-1 to R-
3)

M/s.Soubhagya Kumar
Dash, S.K. Tripathy (for
R-4)



MACA No.417 of 2025
CNR No. ODHC010207122025

Manager, T.P. Hub, The
Oriental Insurance Co. Ltd.,
BBSR

Appellant

Represented by Adv.
– M/s.Somnath Roy

-versus-

Panchanan Sahoo & Ors.

Respondents

Represented by Adv.
– M/s.Kapila Charan
Nayak, H.S.Sarangi
(for R-1 & R-2)

M/s.Soubhagya
Kumar Dash, S.K.
Tripathy (for R-3)

CORAM:
JUSTICE A.K. MOHAPATRA

Date of Hearing : 19.08.2026 | Date of Judgment: 19.08.2026

A.K. Mohapatra, J. :

1. Since the aforesaid three appeals arising out of three separate MACs filed by three different claimants pertain to the self-same accident and were disposed of by a common judgment dated 08.07.2024, all the appeals are taken up together for hearing with the consent of counsels appearing for both Appellant-Insurance Company and Respondent-



Claimants. Notices issued in the admission matter on the Respondents have been made sufficient in the meantime.

2. Learned counsel for the Appellant-Insurance Company, at the outset, contended that three MAC cases were filed by three different claimants pertaining to the self-same accident which were registered as MAC Case No.236, 237, and 238 of 2022 which were disposed of by a common judgment dated 08.07.2024 by the learned 3rd Additional District Judge-cum-4th MACT, Cuttack. By virtue of the impugned common judgment dated 08.07.2024, the learned Tribunal has awarded a total sum of Rs.22,80,303.75/- along with interest @ 6% in favour of the Respondents-Claimants in MACA No.415 of 2025. Similarly, in MACA Case No.416 of 2025, the learned Tribunal has awarded a total compensation amount of Rs.16,28,685/- along with interest @ 6% in favour of the Respondents-Claimants. In MACA Case No.417 of 2025, the learned Tribunal has awarded a total compensation of Rs.15,80,685/- along with interest @ 6% in favour of the Respondents-Claimants. Being aggrieved by such award of compensation in favour of the Respondents-Claimants in all the aforesaid 3 Appeals, the Appellant-Insurance Company has approached this Court by filing three different appeals arising out of a common judgment dated



08.07.2024. Both on the ground of questioning the quantum of compensation as well as the fixation of liability solely on the Insurance Company. In course of his argument, learned counsel appearing for the Appellant-Insurance Company contended that also on the ground that the accident had occurred due to composite negligence of the vehicle in which the deceased was traveling as occupants of the vehicle.

3. The factual background of the present case, in short, is that on 28.02.2022 at about 11:00 P.M., the deceased persons, namely, Dillip Kumar Sahoo, Jayanta Pradhan, and Dibyajyoti Sahoo, along with others, were traveling in a car bearing registration number OD-02F-5577 from Khamar to Injidi on the extreme left side of the road on the way at Kantiapasi Chhak, on NH-49 near Bricks Factory, the offending truck bearing registration number OD-09Q-9229 came in a very high speed and being driven by in a rash and negligent manner, suddenly dashed against the car. As a result, the above named deceased persons and their friends sustained grievous injuries. Thereafter, they were immediately shifted to the CHC Khamar for treatment, where the deceased persons were declared dead. At the time of the accident, deceased-Dillip Kumar Sahoo was 29 years and he was doing wielding business. Similarly,



deceased-Jayanta Pradhan was aged about 21 years and he was doing business of edible items and deceased-Dibyajyoti Sahoo was aged about 21 years and he was a skilled labourer. The Respondents in the respective appeals are the legal heirs of the deceased persons in their respective appeals.

4. The stand of the claimants-Respondents before the learned Tribunal was that the truck was being driven in a rash and negligent manner and the same collided with the vehicle in which the deceased persons were traveling as passengers. It was also contended that the offending truck was duly insured with the Appellant-Insurance Company and that a stand was taken before the Tribunal that both the Insurer of Truck as well as car in which the deceased persons were travelling are compositely liable to pay the compensation amount. So far the legal heirs of the deceased-Dillip Kumar Sahoo are concerned, they claimed a total compensation amount of Rs.25,00,000/-. Similarly, the legal heirs of the deceased-Jayanta Pradhan claimed a total compensation amount of Rs.15,00,000/- and the legal heirs of the deceased-Dibyajyoti Sahoo claimed a total compensation amount of Rs.13,00,000/-, on different dates.

5. The Opposite Party No.1-Respondent No.5, the owner-driver of the offending vehicle, filed a written statement and



challenged the claim application by taking a ground that the offending truck was validly insured with the Appellant-Insurance Company and that the accident has occurred during the insurance coverage period. As such, the Opposite Party No.1 before the learned Tribunal took a stand that Appellant-Insurance Company is solely liable to bear the entire liability arising out of the aforesaid accident. Apart from the other grounds, the Opposite Party No.1, is owner-driver of the offending vehicle, took several other grounds before the learned Tribunal.

6. The Appellant-Insurance Company, who was the Opposite Party No.2 before the learned Tribunal, also filed its written statement taking a stand that the driver of the truck was not having any valid driving license and that even the truck was validly insured, the Opposite Party No.2 cannot be made liable to pay the compensation amount. The Appellant-Insurance Company also disputed the quantum of compensation claimed by the claimants before the learned Tribunal.

7. Basing on the aforesaid pleading of the respective parties, the learned Tribunal formulated five questions to decide the dispute involved in the abovenoted three claim cases, which were tried together. After taking evidence from



both sides and upon hearing counsels appearing for the respective parties in different claim cases, the learned Tribunal has finally disposed of all the three claim cases by a common judgment dated 08.07.2024 thereby awarding compensation as has been indicated hereinabove. Being aggrieved by fixation of the entire liability on the Insurance Company as well as the quantum of compensation and, further, the approach of the learned Tribunal in not holding the negligence to be a contributory one, the Appellant-Insurance Company has approached this Court by filing the present appeals on the grounds as has been specified in the appeal memo.

8. Mr.Roy, learned counsel appearing for the Appellant-Insurance Company, at the outset, contended that the learned Tribunal has committed a gross error of fact as well as law in not determining that actual income of the deceased and, accordingly, wrong amount of compensation has been calculated by ignoring the settled principles of law. He further contended that the offending vehicle, which is a truck, was not having any route permit and that such route permit was obtained two days after the accident. In the aforesaid context, learned counsel for the Appellant-Insurance Company filed a copy of the permit before this Court which has been obtained



by the Insurance Company under the Right to Information Act. However, Mr.Roy very fairly submitted that though such document was filed before the learned Tribunal, however, the same was erroneously not marked as an exhibit, and such document has not been taken into consideration by the learned Tribunal at the time of final hearing of the claim cases jointly. Since the copy of the permit, which has been obtained under the Right to Information Act, and was filed before the learned Tribunal during hearing of the MAC cases, has not been taken into consideration by the learned Tribunal, learned counsel for the Appellant-Insurance Company contended that the entire award is liable to be set aside on that ground and the matter be remanded back to the Tribunal for reconsideration after taking into consideration the aforesaid document filed on behalf of the Appellant-Insurance Company.

9. Such assertion of the learned counsel for the Appellant-Insurance Company was resisted by the counsel appearing for the Respondents-Claimants. Learned counsel for the Respondents-Claimants, on the other hand, contended that the learned Tribunal has not committed any error in assessing the income of the deceased persons at the time of the death, and in passing the impugned judgment thereby awarding



compensation in favour of the Respondents-Claimants. He further contended that even accepting that the truck was not having a permit, which was not brought to the notice of the learned tribunal at the time of hearing, the compensation amount is to be paid by the Insurance Company to the Respondents-Claimants at the first instance and thereafter they may seek for recovery of such amount from the owner-driver once the liability is fixed by the learned Tribunal. Therefore, such determination even at the later stage will not affect the compensation awarded in favour of the Respondents-Claimants. He further contended that at this belated stage if the matter is remanded back to the Tribunal, the same would cause serious prejudice and irreparable injury to the claimants, who are the legal heirs of the deceased, who died in the road accident.

10. Learned counsel appearing for the Respondent No.5, is the Opposite Party No.1-owner before the Tribunal, on the other hand submitted that the learned Tribunal has not committed any illegality in saddling the entire liability with the Insurance Company. He further contended that the truck was validly insured and was having a valid registration number. He further contended that no fault can be found with the owner-



driver of the offending vehicle. He further contended that the document which was filed before this Court, allegedly a permit, was never filed before the learned Tribunal during hearing of the MAC cases. Therefore, the same cannot be taken into consideration at this appellate stage. On such ground, learned counsel for the driver-owner-Respondent No.5, objected to the prayer made in the appeals and further submitted the appeals, being devoid of merit, are liable to be dismissed.

11. Having heard the counsels appearing for the respective parties, on a careful examination of the background facts as well as on appreciation of the materials on record, further on a close scrutiny of the impugned judgment dated 08.07.2024 passed by the learned Tribunal thereby awarding compensation in three different MAC cases which were disposed of vide a common judgment, this Court observed that while assailing the common judgment at Annexure-1, the Appellant-Insurance Company raised two valid grounds. The first one being, with regard to the quantum of compensation that has been awarded by the learned Tribunal. While awarding such compensation, the learned Tribunal has awarded excess amount on conventional head. It appears that in the judgment of the Hon'ble Supreme Court in the matter of *National Insurance*



Co. Ltd. vs. Pranay Sethi & Ors. reported in **AIR 2017 SC 5157**, the Hon'ble Supreme Court has quantified the compensation on conventional head to be Rs.70,000/-. However, in the present case, the learned Tribunal has exceeded that limit and has awarded a sum of Rs.2,28,000/- in MACA No.415 of 2025. Similarly, in MACA No.416 of 2025, the learned Tribunal has awarded a sum of Rs.1,80,000/- and in MACA No.417 of 2025, the learned Tribunal has awarded a sum of Rs.1,32,000/-. Such award, on the ground on conventional head, by the learned Tribunal needs to be interfered with by this Court keeping in view the law laid down by the Hon'ble Supreme Court in **Pranay Sethi's** case (*supra*). Accordingly, the award by virtue of the common judgment dated 08.07.2024 is modified to the extent that in all three cases, the compensation on conventional head be reduced to Rs.70,000/-. So far the assessment of the income of the deceased persons is concerned, this Court is of the view that the same doesn't call for any interference by this Court and that the same is based on the evidence on record. Accordingly, the award of compensation stands modified to the aforesaid extent and the Appellant-Insurance Company shall now deposit a sum of Rs.21,50,000/- in MACA No.415 of 2025, and a sum of



Rs.15,00,000/- in MACA No.416 of 2025 and a sum of Rs.14,50,000/- in MACA No. 417 of 2025 along. The aforesaid modified amount shall be deposited along with interest at the rate of 6% per annum from the date of filing of the claim application till the actual deposit within a period of 8 weeks from today. Subject to such deposit and on production of a copy of the acknowledgment of such deposit, the Registry shall return the statutory deposit along with accrued interest in favour of the Appellant-Insurance Company on an appropriate application being filed by the Appellant-Insurance Company.

12. With regard to fixation of liability, this Court found that the learned Tribunal by virtue of the impugned judgment has saddled the entire liability on the Insurance Company. Mr.Roy, learned counsel for the Appellant-Insurance Company produced a copy of the road permit which was obtained under the Right to Information Act. It is alleged that though such document was produced before the Tribunal at the time of hearing, however, the same has not been taken into consideration by the learned Tribunal while saddling the liability on the Insurance Company. Although the fixation of liability on the Insurance Company is supported by both the claimants as well as the driver-owner of the offending vehicle,



since the fixation of liability is an issue between the Insurance Company and the owner-driver of the truck, the same is required to be adjudicated by taking into consideration the contentions of both sides. The road permit which was filed before this Court reveals that the same was issued in favour of the offending truck two days after the accident. However, there is no such evidence before this Court as to whether the truck had a valid permit at the time the accident occurred. Therefore, the issue with regard to fixation of the liability either entirely or treating the same to be a composite negligence is required to be adjudicated further by the tribunal by taking into consideration the documents filed on behalf of the Appellant-Insurance Company.

13. In such view of the matter, the present appeals are remanded to the learned Tribunal on the aforesaid limited issue of fixation of the liability, the Appellant-Insurance Company as well as the driver-owner-Respondent No.5 shall appear before for the learned Tribunal within two weeks from today along with a copy of today's judgment. On their appearance, the learned Tribunal shall provide opportunity to both sides with regard to admissibility of the document obtained by the Appellant-Insurance Company under Right to Information Act,



and consider the admissibility of such document. In the event, the Tribunal comes to a conclusion that such document is admissible in evidence, then the Tribunal shall proceed further to decide on fixation of the liability. It is needless to mention here that if the Tribunal decides that the driver-owner of the vehicle is responsible in any manner, the right to recovery to the Appellant-Insurance Company from the driver-owner, in accordance with law, shall be a consequence thereof. The learned Tribunal shall make every endeavor to dispose of the remanded appeal to the aforesaid limited extent within a period of 4 months from the date of communication of the copy of today's judgment after providing sufficient opportunity to both sides to present their cases before the tribunal.

14. Accordingly, these appeals stand disposed of.

(A.K. Mohapatra)
Judge

Orissa High Court, Cuttack
The 19th August, 2026/ Anil/ Jr. Steno

Signature Not Verified

Digitally Signed
Signed by: ANIL KUMAR SAHOO
Reason: Authentication
Location: High Court of Orissa
Date: 21-Aug-2026 18:30:32

