IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA No.4 of 2021

The Divisional Manager, National Insurance Co. Ltd. .... ***Appellant***

Mr. P.K. Mahali, Advocate

-versus-

Sk. Sakil Allam and another .... ***Respondents***

Mr. B.N. Samantaray, Advocate for Respondent No.1

CORAM:
JUSTICE B. P. ROUTRAY

ORDER
04.01.2022

Order No.	
	MACA No.4 of 2021 & I.A. No.1002 of 2021
06.	1. From the office note, it appears that instead of the expression "MACA No.4 of 2021", the same has been inadvertently mentioned in the order dated 13.12.2021 as "MACA No.4 of 2019".

2. In view of the above, the expression "MACA No.4 of 2019" mentioned in the order dated 13.12.2021 be corrected as "MACA No.4 of 2021".

3. Heard Mr. P.K. Mahali, learned counsel for the Appellant-Insurance Company as well as Mr. B.N. Samantaray, learned counsel for the Respondent No.-claimant.

4. The present appeal has been filed by the Insurance Company against the award dated 10.02.2020 of the learned 4th MACT,

Cuttack in MAC Case No.782 of 2015/11 of 2017 wherein the learned Tribunal has granted compensation to the tune of Rs.2,50,000/- along with 6% interest per annum to the claimant from the date of filing of the claim application i.e. 28.10.2015 on account of the injury sustained by the claimant in a motor vehicular accident dated 14.07.2015.

5. Mr. P.K. Mahali, learned counsel for the Appellant-Insurance Company submits that the offending vehicle, i.e. Tipper bearing Regd. No.OR-09-F-5754 did not have the valid insurance policy on the date of accident. But subsequent after four months of the accident, it was insured vide Policy No.16310031156300005916 valid from 24.11.2015 to 23.11.2016. A copy of the said Policy has been appended to I.A. No.1002 of 2021 praying to take the same on record as additional evidence.

6. However, considering the date of accident on 14.07.2015, the said policy is found without any relevancy to the dispute and as such is not required to be taken on record.

7. It is seen from the copy of the written statement filed by the present Appellant (Opposite Party No.2 before the learned Tribunal), as produced in course of hearing, that the specific averment was, *"....This Opposite Party further humbly submits that the driver of the vehicle had no valid license, nor the vehicle was having any valid insurance under this Opposite Party"*. Ext.4, the seizure list prepared by the Police also does not disclose any cover note number or insurance policy number in respect of the offending vehicle. No other document was

produced in course of trial to reveal any specific insurance policy in respect of the offending vehicle. The owner of the offending vehicle in his written statement also did not mention any specific insurance policy number. But the learned Tribunal without discussing anything on this aspect has directed the Appellant to pay the compensation amount on behalf of the owner.

8. Learned counsel for the claimant-Respondent No.1 in course of hearing is unable to produce any document to reveal valid insurance policy in respect of the offending vehicle on the date of accident.

9. Having considered all such factors, the Appellant cannot be treated as a valid insurer of the offending vehicle on the date of accident in absence of any document produced to that effect. Accordingly, the Appellant is discharged from its liability to indemnify the compensation on behalf of the owner.

10. The appeal is allowed to the above extent. However the claimant is at liberty to realize the compensation amount from the owner of the offending vehicle as per the direction of learned Tribunal.

11. The statutory deposit made before this Court with accrued interest thereon shall be refunded to the Appellant-Insurance Company on proper application.

12. The appeal as well as the I.A. is disposed of.

13. An urgent certified copy of this order be granted on proper application.

(B.P. Routray)
Judge

B.K. Barik