

IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA No.376 of 2005

Manoranjan Panda

....

Appellant

Mr. S. Bahadur, Advocate

-versus-

Ravinath Bhowmik and another

....

Respondents

Mr. A. Das, Advocate for Respondent No.2

CORAM:

JUSTICE B. P. ROUTRAY

ORDER

21.12.2022

Order No.

11.

1. Heard Mr. S. Bahadur, learned counsel for the Appellant-owner as well as Mr. A. Das, learned counsel for the Respondent No.2-Insurance Company.

2. Present appeal by the owner-Appellant is directed against the judgment dated 25.11.2004 of learned 2nd M.A.C.T., Northern Division, Sambalpur in Misc.(A) Case No.300 of 1993(S), wherein learned Tribunal while directing for payment of compensation of Rs.30,000/- against lost of property (the vehicle) has limited the liability of Insurance Company to Rs.6,000/- only.

3. It is seen on the impugned judgment that the learned Tribunal while discussing under Issue No.2, has relied on several decisions of the Supreme Court rendered in the cases of *National Insurance Co. Ltd. vs. Jugal Kishore and others*, 1988 ACJ 270, *Oriental Insurance Co. Ltd. vs. C. Nafeessu and others*, 2001 ACJ 1, *New India Assurance Co. Ltd. vs. Minalata Ray and another*, 1983 ACJ 53, *New India Assurance Co. Ltd. vs. S.*

Dargan and others, 1990 ACJ 127, Nafessu and others vs. Koya and others, 2004 ACJ 1137 and Trilokraj and another vs. Rajpal Singh, 1993 ACJ 286, and come to the conclusion that the liability on the part of the insurer is limited to Rs.6000/- only.

4. Here the learned Tribunal has committed an error. All such decisions of the Supreme Court referred by the learned Tribunal are relating to the previous Act i.e. Motor Vehicles Act, 1939 (Act No.4 of 1939). The new Act, i.e. M.V. Act, 1988 came into force w.e.f. 1.7.1989. In the case at hand, the date of accident is 7.4.1993 and therefore, the claim is governed under the new Act, i.e. M.V. Act, 1988. As per Section 147(1)(b) of the 1989 Act, no such limit is prescribed unlike it was in Section 95(2) of the 1939 Act. It would be profitable to reproduce here the language used in Section 147(1)(b)(i) of the M.V. Act that, “.. .. *against any liability which may be incurred by him in respect of or damage to any property of a third party caused by or arising out of the use of the vehicle in a public place.*” Therefore, the reasoning assigned by learned Tribunal to limit the liability up-to Rs.6,000/- only on the insurer appears illegal. Accordingly, the direction of the learned Tribunal to that effect is set aside.

5. In the result, the appeal is allowed and the insurer-Respondent No.2 is directed to pay the entire compensation amount as directed by the learned Tribunal in the impugned judgment along with interest within a period of two months from today, whereafter the same shall be disbursed in favour of the claimant-Appellant.

6. It is further observed that if any payment has already been made by the insurer-Respondent No.2 in the mean time pursuant to direction of the Tribunal, the same shall be adjusted from the amount directed above.

7. The MACA is disposed of with aforesaid directions.

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

(B.P. Routray)
Judge

