

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 11342 of 2004

Prabhat Kumar Mohapatra

....

Petitioner(s)

Mr.S.D.Das, Sr. Adv.

-versus-

*The Divisional Manager, The New India
Assurance Co. Ltd. & Ors.*

....

Opp.Party(s)

Mr.S.K.Swain, Adv.

Mr.G.P.Dutta, Adv.

Mr.B.K.Sahoo, Adv

CORAM:

JUSTICE BISWANATH RATH

ORDER

06.12.2022

Order

No.

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1. Heard learned counsel appearing for the parties.
2. This writ petition involves a challenge to the order at Annexure-5 being passed by the Insurance Ombudsman-opposite party no.3 in deciding an application of the petitioner under Rule 13 read with rule 12(1)(b) of the Redressal of Public Grievance Rules, 1998. Taking this Court to the pleadings and the nature of claim involved herein while alleging that allowing third party coverage, refused to take up the issue of compensation in loss of petrol carried in the tanker involved solely on the premises that there was no such endorsement in the licence of the driver authorizing him to carry the vehicle/tankers involving petroleum products.
3. In course of submission, taking this Court to the admission at annexure-4, Mr.Das, learned senior counsel attempted to justify his submission in support of the driver having already authorized to drive goods carriage carrying goods of dangerous or hazardous nature of human life. It is in the circumstance, Mr.Das, learned senior counsel contended that there is no proper consideration of the Insurance Ombudsman involved herein and as such the impugned order needs interference.

4. Mr.G.P.Dutta, learned counsel appearing for the Insurance Ombudsman-opposite party no.3 attempted to justify the order passed by the Insurance Ombudsman.

5. Nobody is in Court to defend the case on behalf of the Insurance Company involved herein.

6. Considering the rival contentions of the parties and looking to the grounds raised herein, keeping in view the claim of Mr.Dutta, learned counsel on the basis of Annexure-4 and entire reading of Annexure-5, this Court nowhere finds the claimant therein undertaking the exercise establishing that the driver was already authorized in driving the vehicle carrying petroleum products of hazardous nature of materials. Development through Annexure-4 cannot alone be the determining factor, relevant aspect is there should have been proper endorsement in the Driving Licence of the Driver. Further authenticity of the Annexure-4 is also not known. Such a plea was even not available with the Ombudsman and or the Insurance Authority. For the opinion of this Court, for there is no such pleading before the competent authority and there is also no support of such document at Annexure-4 in course of hearing of the proceeding involving Annexure-5, there is no foundation built.

7. In the circumstance, this Court finds no defect can be found with the Insurance Ombudsman in not taking into account the development at Annexure-4. Keeping the above in view, this Court finds no infirmity in the order at Annexure-5 requiring to interfere therein.

8. The writ petition thus stands dismissed.

(Biswanath Rath)
Judge

Sks