

IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA No.481 of 2006

From the Judgment / Order dated 24.02.2006 passed by the learned 3rd M.A.C.T., Balasore in M.A.C Case No.43/82 of 2002/1997.

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**M/s. Oriental Insurance Co.,
Ltd.**

Appellant

-versus-

**Anam Chandra Patra &
Others**

Respondents

For Petitioner : M/s. G.P. Dutta, K.C.Nayak & M.K.Swain.

For Opp. Parties : M/s. B.B.Singh & P.B. Sinha.

PRESENT:

THE HONBLE JUSTICE BIRAJA PRASANNA SATAPATHY

Date of Hearing:07.07.2022 and Date of Order:14.07.2022

Biraja Prasanna Satapathy, J.

1. This matter is taken up through Hybrid Mode.
2. Heard Mr. G.P.Dutta, learned counsel for the Appellant-Company and Mr. B.B.Singh, learned counsel for the Claimants-Respondents.
3. This appeal has been filed by the Appellant-Company challenging the judgment dated 24.02.2006 passed in M.A.C Case No. 43/82 of 2002/1997 by the learned 3rd M.A.C.T., Balasore.

4. Mr. Dutta, learned counsel for the Appellant submitted that the accident in question in the present case occurred on 25.11.1996 and by that time, the policy in question i.e. Policy No.345401 was not in existence. The aforesaid policy was for the period 28.11.1996 to 27.11.1997.

5. It is further submitted that though the said stand was taken by the Appellant-Company before the learned Tribunal, but learned Tribunal without applying judicial mind and without proper appreciation of the same held the Appellant-Company liable on the presumption that the earlier policy for the period 8.11.1996 to 7.11.1997 must have been issued by the appellant-company and accordingly the appellant-company is liable to pay the compensation.

6. Mr. Dutta learned counsel for the Appellant submitted that since the policy i.e. Policy No.345401 is issued for the period from 28.11.1996 to 27.11.1997 and the accident occurred on 25.11.1996, on the face of such policy, the Appellant-Company should not have been saddled with the liability.

7. It is also submitted that policy covering the date of accident was issued either by the Appellant-Company or by any other company was ever produced by the owner of the offending vehicle or by the Claimants. Therefore, in absence of any such policy covering the period of accident, learned Tribunal should not have held the appellant-company liable to pay the compensation.

8. Accordingly, Mr. Dutta learned counsel for the Appellant prayed for interference of this Court in the impugned judgment.

9. Mr. Singh, learned counsel for the Claimant-Respondent though supported the impugned judgment, but failed to produce any document showing issuance of any policy by the appellant-company covering the date of accident i.e. 25.11.1996.

10. Mr. Singh also failed to produce any policy issued by the appellant-company for the period from 08.11.1996 to 07.11.1997, basing on which learned Tribunal has passed the impugned award.

11. Heard learned counsel for the Parties.

12. Perused the materials available on record. This Court after going through the same finds that learned Tribunal on the presumption that the earlier policy from 08.11.1996 to 07.11.1997 must have been issued by the Appellant-Company held the appellant liable to pay the compensation. Since no policy covering the date of accident was ever produced by the Claimant or by the owner of the offending vehicle, learned Tribunal on presumption should not have held that the policy for the period i.e. 08.11.1996 to 07.11.1997 must have been issued by the appellant-company.

13. In that view of the matter, this Court is inclined to interfere with the impugned judgment. Accordingly, while quashing the impugned judgment, this Court deems it fit to remand the same for fresh adjudication.

14. It is observed that learned Tribunal on remand of the matter shall give reasonable opportunity to the claimants to produce the policy issued either by the Appellant-Company or by any other Company covering the date of accident. Learned Tribunal shall also give opportunity of hearing to all the parties concerned and allow them to lead oral as well as the documentary evidence in support of their respective claims.

15. Since the claim is with regard to the accident of the year 1996, this Court directs the learned Tribunal to complete the retrial within a period of six months from the date of receipt of this order.

16. With the aforesaid observations and directions the MACA stands disposed of.

संक्षिप्त न्याये

(Biraja Prasanna Satapathy)
Judge

Orissa High Court, Cuttack
Dated the 14th of July, 2022/Subrat