

IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA No.680 of 2012

M/s.New India Assurance Co. Ltd. ***Appellant***

Mr. P.K. Panda, Advocate

-versus-

Balaram Pahi and others ***Respondents***

Mr. B.B. Mishra, Advocate for Respondent No.3

Mr. Sudip Kumar Sarangi, Advocate for Respondent No.1

CORAM:

JUSTICE B. P. ROUTRAY

ORDER
10.02.2022

Order No.

07.

1. In view of the office note, notice is treated sufficient against Respondent No.4.

2. Heard Mr. P.K. Panda, learned counsel for the Appellant-Insurance Company, Mr. B.B. Mishra, learned counsel for the Respondent No.3 and Mr. Sudip Kumar Sarangi, learned counsel for the Respondent No.1.

3. Mr. P.K. Panda, learned counsel for the Appellant submits that in terms of the order dated 4.5.2016, he has already deposited the entire awarded amount of Rs.1,60,500/- along with interest before this Court on 19.05.2016.

4. Present appeal by the insurer is directed against the judgment dated 17.04.2012 of the learned 2nd MACT, Cuttack in Misc. Case No.239 of 1994 wherein compensation to the tune of

Rs.1,60,500/- along with interest @6% per annum from the date of filing of the claim application was granted by the learned Tribunal to the claimant on account of her injury sustained in a motor vehicular accident dated 17.12.1993. Learned Tribunal while holding composite negligence on both the offending vehicles has further directed to pay the compensation by both the insurers, i.e., M/s.National Insurance Co. Ltd. and M/s.New India Assurance Co. Ltd. in equal share.

5. Present Appellant is M/s.New India Assurance Co. Ltd, who challenges the direction made to it for depositing the award to the extent of 50% along with 6% interest.

6. Mr. Panda, learned counsel for the Appellant submits that though the driver of the offending Truck in respect of which the Appellant was directed to indemnify the compensation to the extent of 50% was not having a valid license on the date of accident. It is further submitted that the license shown on the part of the driver of the Truck is a fake license. But the learned Tribunal without discussing the same has directed for indemnification of the compensation amount by the insurer.

7. Having heard all the parties and upon perusal of the impugned judgment, it reveals that except the stray averment in the Written Statement contending that the driver had no valid license, no specific pleading or evidence was taken by the Appellant before the learned Tribunal. In the present appeal also the Appellant does not adduce any additional evidence to substantiate the plea on that score. Therefore, the contention raised by the Appellant

that the driver had no valid license or fake license on the date of accident cannot be accepted at this stage. Accordingly, the appeal is seen without merit and dismissed.

8. The Appellant-Insurance Company is directed to deposit the amount liable to him along with interest as per the direction of the learned Tribunal within a period of two months from today and the same shall be disbursed to the claimant.

9. On deposit of the award amount before the learned Tribunal and filing of a receipt evidencing the deposit with a refund application before this Court, the statutory deposit made before this Court with accrued interest thereon shall be refunded to the Appellant-Insurance Company.

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

(B.P. Routray)
Judge