

IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA NO.820 OF 2007

From the Judgment/Order dated 09.08.2007 passed by the learned 3rd M.A.C.T, Puri in M.A.C Case No.16/444 of 2001/1997.

Kishore Senapati

::::

Appellant.

--: VERSUS :-

Dwarikanath Das & Anr.

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Respondents.

**Appeared in this case by Video Conferencing Mode /
Hybrid Mode.**

For Appellant :::: Mr. N. Mishra, Advocate

For Respondents :::: Mr. S. Satpathy
(for Respondent No.2)

PRESENT :

THE HON'BLE MR. JUSTICE B.P.SATAPATHY

Date of Hearing- 18.04.2022:: Date of Order- 25.04.2022

B.P.Satapathy, J. Heard learned counsel for the Parties.

2. This appeal has been filed by the claimant-Appellant challenging the judgment dtd.09.08.2007 passed in MAC Case No.16/444 of 2001/1997 by the learned 3rd MACT, Puri.

3. It is submitted that vide the said judgment learned Tribunal without proper appreciation of the materials

available on record and the documents exhibited by the Claimant-Appellant, dismissed the claim Petition on contest against Respondent No.2 and ex parte against Respondent No.1.

4. It is submitted that all the materials were placed with regard to the accident, which took place on 20.05.1997 and the treatment of the Petitioner for the period from 20.05.1997 to 22.06.1997 with due exhibition of the same vide Ext.1. But learned Tribunal on surmises and conjectures did not entertain the claim Petition and rejected the same vide the impugned judgment.

5. It is also submitted that since the Appellant-Claimant was represented by a lawyer, he was not properly advised by his engaged counsel to lead proper evidence and to produce documents in support of his claim. It is also submitted that for the laches of the counsel the Appellant-Claimant should not suffer.

6. Mr. Satapathy, learned counsel appearing for the Respondents-Company submitted that since the Appellant failed to prove his injury with cogent material, learned Tribunal has rightly rejected his claim. Mr. Satapathy, accordingly prayed for no interference by this Court.

7. Heard the Parties at length and perused the materials available on record. After going through the same this Court finds that learned Tribunal has not considered the materials available with him and dismissed the matter without proper appreciation. This Court when came to a conclusion, to remand the matter for fresh adjudication by

the learned Tribunal, Mr. Mishra, learned counsel appearing for the Appellant supported the said view of this Court.

8. Mr. Satapathy, learned counsel appearing for the Respondent-Company left the same to the discretion of this Court.

9. Having heard learned counsel for the Parties and taking into account the grounds taken in the memo of appeal and the materials available on record, this Court deems fit and proper to set aside the impugned judgment dtd.09.08.2007 passed in MAC Case No.16/444 of 2001/1997 by the learned 3rd MACT, Puri and remand the same for fresh disposal in accordance with law.

10. It is observed that since the incident is of the year 1997, learned Tribunal on remand of the matter shall make all endeavour to dispose of the claim within a period of 6(six) months from the date of receipt of this order. It is further observed that both the Parties shall be permitted to lead further evidence both oral and documentary in support of their respective claim before the learned Tribunal.

11. With the aforesaid observation and direction, the appeal is disposed of.

(Biraja Prasanna Satapathy)
Judge

Orissa High Court, Cuttack
The 25th April, 2022/Sneha