

IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA No.867 of 2007

<i>M/s.Oriental Insurance Co. Ltd.</i>		<i>Appellant</i>
		Mr. P.K. Panda, Advocate
	-versus-	
<i>Kalpana Pattnaik and others</i>		<i>Respondents</i>
		None

**CORAM:
JUSTICE B. P. ROUTRAY**

ORDER
11.02.2022

Order No.

M.C. No.2201 of 2007 & MACA No.867 of 2007

05.

1. There is delay of 176 days in filing the appeal.
2. Heard Mr. P.K. Panda, learned counsel for the Appellant-Insurance Company. None appears on behalf of the Respondents on call. The matter is heard finally on merit with consent of the Appellant.
3. Present appeal is preferred by Oriental Insurance Co. Ltd., who is the insurer of the offending Trekker bearing Registration No.OR-09-8667.
4. It is contended by the Appellant that admittedly the learned Tribunal has found composite negligence on the part of the driver of the Truck and the driver of the Trekker. However, the insurer of the Truck settled the matter with the claimants and the learned Tribunal holding both drivers equally negligent for accident has

directed the present Appellant to pay a sum of Rs.1,82,850/- which is 50% of the total compensation amount. It is further contended that the driver of the offending Trekker had no valid license to drive the commercial vehicle on the date of accident though he had the license to drive the light motor vehicle. On such ground, Mr. Panda, learned counsel for the Appellant submits to get the right of recovery from the owner of the vehicle.

5. The aforesaid contention of the Appellant is not found convinced in view of the principle already settled by the Supreme Court in the case of *Mukund Dewangan vs. Oriental Insurance Company Limited*, AIR 2017 SC 3668. Accordingly, the same is rejected and the appeal is dismissed being without merit.

6. It is needless to say that no ground is made out in the submission of the Appellant for reduction of the compensation amount. However, the penal interest as directed by the Tribunal is waived.

7. 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 claimants on such terms and proportion to be decided by the Tribunal.

8. 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.

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

(B.P. Routray)
Judge

B.K. Barik

