

IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA No.67 of 2016

Pranakrushna Pati

Appellant
....
Mr. B.K. Behera-1, Advocate

-versus-

Sailabala Behera and another

Respondents
....
Mr. G.P. Dutta, Advocate for Respondent No.2

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

**ORDER
11.02.2022**

Order No.
05.

1. Heard Mr. B.K. Behera-1, learned counsel for the Appellant-claimant and Mr. G.P. Dutta, learned counsel for the Respondent No.2-Insurance Company.

2. Present appeal by the injured-claimant is directed against order dated 3.10.2015 and judgment dated 17.10.2015 of learned 3rd M.A.C.T., Phulbani. In order dated 3.10.2015, learned Tribunal has rejected the prayer of the claimant to withdraw the claim application. Consequently by judgment dated 17.10.2015, learned Tribunal has directed Opposite Party No.1-Sailabala Behera (present Respondent No.1) to pay compensation to the tune of Rs.1,68,970/- along with interest @6% per annum from the date of filing of the claim application, i.e.13.09.2012 in favour of the claimant.

3. It is submitted by the Appellant that if the prayer for withdrawal of the claimant which was rejected by the impugned order dated 3.10.2015 would be allowed by setting aside the order, his purpose would be fulfilled and the judgment dated 17.10.2015 would consequently fall.

4. On the other hand, Mr. G.P. Dutta, learned counsel for Respondent No.2 submits that the learned Tribunal is very much right in order dated 3.10.2015 to reject the prayer of the claimant for withdrawal. He further submits that at the stage of argument when the claimant realized that the vehicle had no valid insurance policy on the date of accident, he wanted withdrawal the claim application at that stage only.

5. Having heard both the parties, it reveals that the crux of challenge lies in the impugned order dated 3.10.2015. Admittedly by the time when the claimant prayed for withdrawal of the application, the stage of the case had reached up-to argument. It is significant to note the reason on which the claimant sought for withdrawal of the claim application. The claimant prayed for withdrawal of the claim application with liberty to file a fresh claim application on the ground that the lawyer did not properly conduct the case. It is true that within the scope of Rule 23(1) of the C.P.C., such a ground for withdrawal of the case is not available to the party that too at the last stage. The tacit reason of withdrawal is tell-tale and as such, the learned Tribunal has rightly rejected the prayer for withdrawal. So no infirmity is seen

in the order and the challenge of the Appellant in that respect is rejected.

6. It needs to be stated that the Appellant did not put-forth any ground to challenge the impugned judgment dated 17.10.2015 separately.

7. In view of the discussions, the appeal is dismissed.

(B.P. Routray)
Judge



B.K. Barik