IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA No.577 of 2009

Sri Umakanta Mohanty .... ***Appellant***

Mr. D.R. Bhoka, Advocate

-versus-

Sk. Ibrahim and others .... ***Respondents***

Mr. D. Samal, Advocate for Respondent Nos.1 & 2

Mr. G.P. Dutta, Advocate for Respondent No.3

CORAM:
JUSTICE B. P. ROUTRAY

ORDER
21.12.2022

Order No.	
11.	1. Heard Mr. D.R. Bhokta, learned counsel for the Appellant-owner, Mr. D. Samal, learned counsel for the Respondent Nos.1 & 2-claimants and Mr. G.P. Dutta, learned counsel for the Respondent No.3-Insurane Company.

2. Present appeal by the owner-Appellant is directed against the judgment dated 08.04.2009 of learned 3rd M.A.C.T., Balasore in M.A.C. Case No.96/17 of 2002/1999, wherein compensation to the tune of Rs.60,000/- has been granted to the claimants on account of death of the deceased in the motor vehicular accident dated 20.8.1998.

3. Mr. Bhokta, learned counsel submits for the Appellant-owner that despite a copy of the insurance policy has been filed along with his WS before the Tribunal, the same was not taken account of and the Tribunal exempted the liability of the insurer holding that the offending vehicle was uninsured.

4. It is seen from the impugned judgment that the learned Tribunal has held that the offending vehicle bearing Registration No.OIX 9497 was not validly insured on the date of accident. The Appellant files a copy of the WS as well as the insurance policy in respect of the offending vehicle with a prayer to approve them as additional evidence, in Misc. Case No.567 of 2010. It is further seen that under Annexure-2 to the Misc. Case, the information obtained from the Insurance Company through RTI Act is filed to reveal that the offending vehicle was validly insured on the date of accident.

5. Upon hearing both the parties, the prayer to adduce additional evidence is allowed and all such documents filed along with the Misc. Case are taken on record.

6. In view of the copy of the policy produced and the information obtained under the RTI Act from the Insurance Company (Respondent No.3), the validity of the insurance policy on the date of accident in respect of the offending vehicle is admitted. Thus, the liability is shifted on the insurer-Respondent No.3 to pay the compensation amount.

7. In the result, the appeal is allowed and the liability fixed on the owner is shifted to Respondent No.3. The insurer-Respondent No.3 is directed to pay the entire compensation amount as directed by the learned Tribunal in the impugned judgment along with interest @6% per annum from the date of filing of the claim application, within a period of two months from today. However,

the direction of the Tribunal in respect of payment of penal interest @ 9% is waived.

8. The statutory deposit made before this Court with accrued interest thereon shall be refunded to the Appellant.

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

(B.P. Routray)
Judge

B.K. Barik