

IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA Nos.702 & 683 of 2013

From the Judgment / Order dated 22.03.2013 passed by the learned 1st Motor Accident Claims Tribunal, Puri in MACT No.374 of 2004.

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MACA No.702 of 2013

National Insurance Co., Ltd.

Appellant

-versus-

Sasirekha Sahu & Others

Respondents

For Petitioner : M/s. S.R.Pattnaik, Mrs.
P.Pattnaik, D.Pradhan,
N.K.Senapati & N.K.Biswal.

For Opp. Parties : M/s. S.K.Sanganaria,
P.C.Pattanaik,
M/s.N.K.Mohanty, B.K.Mohanty
and B.K.Mohapatra.

MACA No. 683 of 2013

National Insurance Co., Ltd

Appellant

-versus-

Sasirekha Sahu & Others

....

Respondents

For Petitioner : M/s. M/s.N.K.Mohanty,
B.K.Mohanty & B.K.Mohapatra.

For Opp. Parties : M/s. S.K.Sanganaria,
P.C.Pattanaik.

M/s. S.R.Pattnaik, Mrs.
P.Pattnaik, D.Pradhan,
N.K.Senapati.

PRESENT:

THE HONBLE JUSTICE BIRAJA PRASANNA SATAPATHY

Date of Hearing: 09.05.2022 and Date of Judgment: 18.05.2022

Biraja Prasanna Satapathy, J.

1. This matter is taken up through Hybrid Mode.
2. Heard Mr. S.R.Pattnaik, learned counsel for the Appellant in MACA No.702 of 2013 and Mr. N.K.Mohanty, learned counsel for the Appellant in MACA No.683 of 2013 along with Mr. P.C.Pattnaik, learned counsel for the Claimant-Respondents in both the appeals.
3. It is submitted that while dealing with the claim filed by the Claimant-Respondent in MACT No.374 of 2004, learned 1st MACT, Puri vide its judgment dated 22.03.2013 while allowing the claim directed the appellants here in to pay compensation of Rs.3,85,000/- with interest @ 7.5 % per annum payable from the date of filing of the case till its realization proportionately @ 50% each.
4. Mr. Pattnaik, learned counsel for the Appellant in MACA No.702 of 2013 while did not dispute the liability fixed on the Appellant to the extent of 50% of the awarded compensation amount but only raised objection with regard to the rate of interest allowed by the learned Tribunal @ 7.5% per annum on the said awarded compensation.
5. Mr. Pattnaik, submitted that the interest allowed by the learned Tribunal @ 7.5% per annum is not only on the higher

side but also the same is not in consonance with the prevailing rate of interest applicable at the time of the accident.

6. Mr. Pattnaik accordingly prayed for interference of this Court with regard to the rate of interest so awarded by the learned Tribunal in the impugned judgment.

7. Mr. Mohanty, learned counsel for the Appellant in MACA No.683 of 2013 on the other hand submitted that Appellant in the appeal is not liable to pay compensation to the extent of 50% on the ground that no such policy vide Ext. A was ever issued by the Appellant-Company in the name of Biswajit Mishra, owner of the offending vehicle bearing Registration No.TN-25-3789.

8. Mr. Mohanty also submitted that the Driving Licence of the driver of the offending vehicle was not valid at the relevant point of time. It is also submitted that the rate of interest allowed by the learned Tribunal @ 7.5 % per annum is on the higher side.

9. Accordingly, Mr. Mohanty prayed that the Appellant in MACA No.683 of 2013 is not liable to pay the compensation to the extent of 50 % as directed by the learned Tribunal.

10. Mr. P.C. Pattnaik, learned counsel for the Claimant-Respondent while supporting the impugned award submitted that the learned Tribunal after proper appreciation of the materials placed before it rightly assessed the compensation and directed the appellant in both the appeals to pay the compensation amount along with interest @ 50% each.

11. Mr. P.C. Pattnaik also produced before this Court the policy issued by the Appellant in MACA No.683 of 2013

showing the same to have been issued in favour of Biswajit Mishra with the Registration Number of the vehicle as TN-25-3789. The said policy also covers the date of accident.

12. It is also submitted that the Appellant-Company in MACA No.683 of 2013 though appeared before the learned Tribunal but never produced any oral or documentary evidence in support of the stand that has now been taken in the present appeal.

13. It is accordingly submitted that since the Appellant-Company in MACA No.683 of 2013 never produced any documentary or oral evidence in spite of due appearance, the stand taken in the memo of appeal cannot be accepted.

14. It is also submitted that the Appellant-Company in MACA No.683 of 2013 has also not filed any application for acceptance of any document, taking recourse to the provision contained under Order 41, Rule 27 of C.P.C.

15. It is accordingly prayed that no interference is called for by this Court and learned Tribunal has rightly directed the Appellant-Company in both the appeals to pay the compensation amount along with interest @ 50% each.

16. Heard learned counsel appearing for the Parties in both the appeals.

17. Perused the materials available on record. After thorough perusal of the same, this Court finds that the learned Tribunal has rightly saddle the liability on both the appellants in MACA Nos.702 and 683 of 2013. The appellant in MACA No.683 of 2013 as submitted by the learned counsel for the Claimant-Respondent has not lead any oral or documentary

evidence in support of the stand that has been taken in the present memo of appeal. Therefore, such stand cannot be taken into consideration by this Court that too in absence of any application filed by the Appellant under Order 41, Rule 27 of C.P.C. This Court however find that the learned Tribunal while awarding the compensation has directed for payment of interest @ 7.5 %, which is on the higher side.

18. Therefore, this Court while dismissing MACA No.683 of 2013, directs the Appellants in both the appeals to pay the compensation amount of Rs.3,85,000/- with interest @ 6 % per annum payable from the date of application i.e. 06.10.2004 till its realization @ 50% each. This Court directs the Appellants in both the appeals to deposit the aforesaid compensation amount @ 50% each along with interest so indicated hereinabove within a period of eight weeks before the learned Tribunal.

19. It is observed that on such deposit of the entire amount, learned Tribunal shall do well to disburse the same in favour of the Claimants-Respondents proportionately and in terms of its earlier order passed on 22.03.2013.

20. It is however observed that if the Appellants in both the appeals fail to deposit the compensation amount along with interest so assessed by this Court within the period indicated hereinabove, the Claimant-Respondents will be entitled to get interest @ 7 % per annum on the compensation amount of Rs.3,85,000/- for the period starting from the expiry of eight weeks till its payment.

21. It is observed that only after deposit of their respective shares before the learned Tribunal, the Appellants in both the

appeals will be permitted to take refund of the statutory deposit along with accrued interest thereon from the Registry of this Court on proper identification.

22. With the aforesaid observations and directions, both the MACAs stands disposed of.

(Biraja Prasanna Satapathy)
Judge

Orissa High Court, Cuttack
Dated the 18th of May, 2022/Subrat

