

IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA No.262 of 2015

From the Judgment / Order dated 12.12.2014 passed by the learned 1st M.A.C.T., Keonjhar in M.A.C Case No.190 of 2012.

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Jugal Sahoo & Others

....

Appellants

-versus-

**Padma Charan Pradhan &
Another**

....

Respondents

For Petitioner : M/s. A.K.Nayak & S.Sahoo.

For Opp. Parties : M/s. G.P. Dutta, B.K.Sahoo,
S.K.Mohanty & S.Pasayat.

PRESENT:

THE HONBLE JUSTICE BIRAJA PRASANNA SATAPATHY

Date of Hearing:07.07.2022 and Date of Order:14.07.2022

Biraja Prasanna Satapathy, J.

1. This matter is taken up through Hybrid Mode.
2. Heard Mr. A.K. Nayak, learned counsel for the Appellants-Company and Mr. G.P.Dutta, learned counsel for the Claimants-Respondents.
3. This appeal has been filed by the Appellants challenging the award dated 12.12.2014 passed in M.A.C Case No.190 of 2012 by the learned 1st, M.A.C.T., Keonjhar.
4. It is submitted by the learned counsel for the Appellants that even though learned Tribunal after considering all the materials available on record held the

Appellants entitled to get compensation amount of Rs.4,89,000/- with interest @ 6 % per annum payable from the date of application till its payment, but directed the Respondent-Company to pay 50% of the said compensation with right of recovery as against the Owner-Respondent.

5. It is submitted that the learned Tribunal passed such an order by holding the Respondent-Company liable to the extent of 50% of the compensation amount on the ground that because of the head-on-collision of the two offending vehicles, in one of which the deceased was a driver, he is not entitled to get the entire compensation and 50% of same should be borne by him on the ground of contributory negligence.

6. Mr. Nayak submitted that since the learned Tribunal found the vehicle insured with the Respondent-Company liable for rash and negligent driving, the entire compensation amount should have been paid by the Respondent-Company.

7. It is also submitted that with regard to another claim arising out of the self-same incident, the Respondent – Company has borne the entire liability.

8. Accordingly, Mr. Nayak submitted that the balance 50% of the compensation amount be paid by the Respondent-Company along with interest.

9. Mr. Dutta on the other hand submitted that since the accident arose due to head-on-collision in between two vehicle and the deceased was a driver of the other vehicle i.e. OR09-J-7389 and the insurer of the said vehicle was never impleaded as a party, learned Tribunal rightly

saddled the respondent-company with 50% of the liability and no illegality has been committed by the Tribunal.

10. Heard learned counsel for the Parties.

11. Perused the materials available on record. Considering the rival stand taken by the Parties, this Court when came to a finding that the Respondent-Company will pay further consolidated amount of Rs.1,50,000/- in favour of the Appellants. Mr. Nayak, learned counsel for the Appellants supported the said view of this Court.

12. Mr. Dutta, learned counsel for the Respondent left the said view to the discretion of the same.

13. In view of such stand taken by the learned counsel appearing for the Parties, this Court while disposing the appeal directs the Respondent-Company to pay further consolidated amount of Rs.1,50,000/- in favour of the claimants-appellants. It is directed that the aforesaid compensation amount of Rs.1,50,000/- along with the liability saddle on the respondent-company by the learned Tribunal in its order dated 12.12.2014.

14. Since it is submitted that the compensation amount of Rs.2,44,500/- along with interest in terms of the order dated 12.12.2014 has already been deposited by the Respondent-Company before the learned Tribunal appropriate steps be taken for disbursement of the said amount along with the compensation amount of Rs.1,50,000/- so directed by this Court in favour of the Claimant-Respondent proportionately in terms of the order dated 12.12.2014.

15. It is further directed that if the amount in terms of the order dated 12.12.2014 has not yet been deposited by the Respondent-Company then the same shall be deposited within a period fixed by this Court for deposit of the further compensation of Rs.1,50,000/- consolidated.

16. With the aforesaid observations and directions the MACA stands disposed of.

(Biraja Prasanna Satapathy)
Judge

Orissa High Court, Cuttack
Dated the 14th of July, 2022/Subrat

