

**IN THE HIGH COURT OF ORISSA AT CUTTACK**

**MACA No.949 of 2010**

***The Branch Manager, National  
Insurance Company Ltd.***

....

***Appellant***

Mr. Nibas Ch. Mishra, Advocate

*-versus-*

***Subash Mahanandia and Another***

....

***Respondents***

Mr. K. Panigrahi, counsel for Respondent No.1

**CORAM:**

**SHRI JUSTICE B. P. ROUTRAY**

**ORDER**

**12.10.2022**

**Order No.**

- 11.
1. The matter is taken up through hybrid mode.
  2. Heard Mr. N.C. Mishra, learned counsel for the insurer – Appellant and Mr. K. Panigrahi, learned counsel for claimant-Respondent No.1.
  3. Present appeal by the insurer is against the impugned judgment dated 25<sup>th</sup> September, 2010 of the learned 1<sup>st</sup> MACT, Koraput at Jeypore passed in MAC Case No.115 of 2005 wherein compensation to the tune of Rs.1,60,000/- along with interest @ 6% per annum from the date of filing of the claim application, i.e. 20<sup>th</sup> June, 2005 has been granted on account of death of deceased Dhabuli Mahanandia in the motor vehicular accident dated 28<sup>th</sup> March, 2005.
  4. The entire contention of Mr. Mishra in questioning the award is that, the insurer is not liable to indemnify the compensation amount

on behalf of the owner as the policy is for act-only liability and admittedly the offending vehicle is a private Jeep.

5. The copy of the policy and its particulars under Ext.C and Ext.D are produced in course of hearing. Perusal of the same reveals that the policy has limited liability and the offending vehicle was not permitted to be used on hire basis. This being the admitted position, the insurer cannot be held liable to indemnify the compensation amount for the owner, when the deceased admittedly was an occupant of the offending vehicle.

6. In the result the appeal is allowed and the insurer is exempted from the liability and the direction of the tribunal in this regard is set aside. However, the claimant is at liberty to realize the amount of compensation from the owner in accordance with law.

7. The statutory deposit made by the insurer - Appellant before this court along with accrued interest be refunded on proper application.

8. The copies of the policy as produced by Mr. Mishra are kept on record.

9. An urgent certified copy of this order be issued as per rules.

**( B.P. Routray )**  
**Judge**