

IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA No.1275 of 2016

Satyabrata Sahoo & Anr. Appellants

-versus-

M/s. S.D. Thacker & Anr. Respondents

**CORAM:
JUSTICE BIRAJA PRASANNA SATAPATHY**

**ORDER
20.06.2022**

Order No

11. I.A. No.453 of 2022

1. This matter is taken up through Hybrid Arrangement (Virtual/Physical) Mode.
2. This is an application with a prayer to accept the policy in question as an additional evidence.
3. Considering the grounds taken in the Petition, the prayer is allowed and the policy issued by the insurer is to be taken into consideration, while deciding the appeal.
4. Accordingly, the I.A. is disposed of.

**(Biraja Prasanna Satapathy)
Judge**

P.T.O.

12. MACA No.1275 of 2016

1. This matter is taken up through Hybrid Arrangement (Virtual/Physical) Mode.

2. Heard Mr. B.N. Rath, learned counsel for the Appellants and Mr. N.C. Mohanty, learned counsel appearing on behalf of Respondent No. 2. None appears for the Respondent No. 1 when the matter was taken up.

3. Heard learned counsel for the Parties.

4. The Appellants have prayed for enhancement of the compensation in tune with the claim as made in the claim Petition. It is submitted that learned Tribunal vide the impugned order dtd.30.08.2016 while allowing the claim directed the Respondent No. 1 to pay the compensation amount of Rs.13,73,440/- (Rs. Thirteen lakhs seventy three thousand four hundred forty) with interest @ 7% per annum payable from the date of filing of the application till its realization.

5. It is submitted that such an award was passed by directing the Respondent No. 1 to pay the award amount as the said Respondent nor the Appellants could file the policy of the offending vehicle in question. In absence of such policy being filed, learned Tribunal directed the Respondent No. 1 to pay the award amount instead of the fixing liability on the insurer-Respondent No. 2. It is accordingly prayed that not only the award amount is to be enhanced, but also the same be paid by the insurer-Respondent No. 2.

5. The policy in question was taken as an additional evidence by this Court while allowing the application filed to that effect by

the learned counsel appearing for the Appellants. Mr. Mohanty, who was provided with a copy of the said policy also did not dispute the same and fairly admitted that the offending vehicle was duly insured with the Respondent –Company.

6. It is also submitted that since the policy was never produced either by the owner or by the Appellants, learned Tribunal rightly directed the Respondent No. 1 to pay the award amount. Accordingly, it is submitted by Mr. Mohanty that no illegality has been committed by the learned Tribunal in directing Respondent No. 1 to pay the award amount.

7. Heard learned counsel for the Parties at length. Perused the materials available on record. Since it is not disputed by the Respondent No. 2 that the offending vehicle was duly insured with the Company, this Court when take a view that the compensation amount is to be paid by the insurer-Respondent No. 2, Mr. Mohanty submitted that the award so passed by the learned Tribunal is on the higher side and the rate of interest allowed @ 7% is also on the higher side. Accordingly Mr. Mohanty submitted that if at all the Respondent No. 2 is saddled with the liability, then the amount of compensation so awarded by the learned Tribunal be interfered by this Court.

8. After considering the rival stand taken by the learned counsel for the Parties and after going through the materials available on record this Court when came to a conclusion that the Appellants will be entitled to get compensation amount of Rs.12,00,000/- (Rs. Twelve lakhs) with interest payable @ 6% per annum from the date of filing of the case till its payment, Mr. Rath, learned counsel for the Appellants supported the said view of this Court. Mr. Mohanty,

learned counsel appearing for the Respondent No. 2 left the aforesaid view to the discretion of this Court. In view of such stand taken by the learned counsel appearing for the Parties, this Court while interfering with the impugned order dtd.30.08.2016 passed in MAC Case No.366/558 of 2009-07 by the learned 3rd MACT, Bhubaneswar directs the Respondent No. 2 to pay compensation amount of Rs.12,00,000/- (Rs. Twelve lakhs) with interest payable @ 6% per annum from the date of application i.e. 12.11.2007 till its realization with a period of eight (8) weeks from the date of receipt of this Order.

9. It is directed that the compensation amount along with interest so directed hereinabove be deposited by the Respondent No. 2 before the learned Tribunal within the aforesaid period of eight (8) weeks. It is further directed that on deposit of the amount, learned Tribunal shall disburse the same in favour of the Appellants in terms of the order passed on 30.08.2016.

10. It is further observed that if the Respondent No. 2 fails to deposit the amount within the time indicated hereinabove, the Appellants will be entitled to get interest @ 7% per annum for the period beyond expiry of the period of eight (8) weeks till its payment.

9. The appeal is disposed of in terms of the aforesaid observation and direction.

(Biraja Prasanna Satapathy)
Judge

Sneha