

IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA No.336 of 2018

Smt. Bari Krishnabeni and others* *Appellants

Mr. K. Panigrahi, Advocate

-versus-

Sri Sontash Kumar Sahu and another* *Respondents

Mr. A.A. Khan, Advocate for Respondent No.2

CORAM:

JUSTICE B. P. ROUTRAY

ORDER

11.08.2022

Order No.

08.

1. Heard Mr. K. Panigrahi, learned counsel for the Appellant-claimants as well as Mr. A.A. Khan, learned counsel for the Respondent No.2-Insurance Company. None appears on call for the Respondent No.1-owner though the name of Mr. S.K. Pradhan, learned counsel, has been indicated for the owner.

2. Present appeal by the Appellants-claimants is directed against the order dated 22.12.2017 of learned 1st M.A.C.T., Gajapati at Parlakhemundi in M.A.C. No.07/2013 wherein learned Tribunal has rejected the claim application with nil award on the ground of non-appearance and no evidence from the side of the claimants.

3. Mr. K. Panigrahi, learned counsel for the Appellants-claimants and Mr. A.A. Khan, learned counsel for the Respondent No.2-insurer both prays by submitting that one more opportunity should be granted in favour of the parties. It is further brought to the notice of this Court that the Insurance Company has been set *ex-parte* in the claim application before the learned Tribunal.

4. It is seen from the impugned order that the learned Tribunal has disposed of the claim application since the learned counsel for the claimants did not turn up and did not adduce any evidence. It is further seen from the order dated 12.10.2017 of the learned Tribunal that the Insurance Company was set *ex-parte* on 28.8.2017.

5. Thus considering the status of the parties and the suffering of the claimants, the matter is remitted back to the Tribunal, i.e. learned 1st M.A.C.T., Gajapati at Parlakhemundi for fresh adjudication. Parties are directed to appear before the Tribunal on 5th September, 2022 and the Tribunal shall put all endeavour to dispose of the claim application within a period of three months from that date since the accident is relating to the year 2013, after granting opportunity of hearing to all the parties. Further the Insurance Company be permitted to file their WS and adduce evidence also.

6. With the aforesaid direction, the appeal is disposed of.

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

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