IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA No.931 of 2016

Oriental Insurance Co. Ltd. .... ***Appellant***
Mrs.P.Mishra, Advocate

-versus-

Arabind Kumar Singh and another .... ***Respondents***
Mr.K.Panigrahi, Advocate for Respondent No.1

CORAM:
JUSTICE B. P. ROUTRAY

<u>ORDER</u>
5.12.2022

<u>Order No.</u>

12. 1. The matter is taken up through Hybrid mode.

2. Heard Mrs.Mishra, learned counsel for the Appellant-Insurer and Mr.Panigrahi, learned counsel for claimant-Respondent No.1.

3. Present appeal by the Insurer is against judgment dated 2nd February, 2016 of the 1st Additional District Judge-cum-III MACT, Rourkela, in M.A.C. Case No.202 of 2014, wherein compensation to the tune of Rs.8,79,698/- has been granted along with interest @6% per annum with effect from the date of filing of the claim application on account of injuries sustained by the claimant in the motor vehicular accident on 5th September, 2009.

4. Mrs. Mishra submits on behalf of the Appellant that the claim application was filed after six years of the accident and as per the injury report under Ext.4, the injuries sustained in the accident are no way related to the permanent disablement or his further treatment in higher hospital.

5. It is seen that according to the claimant, the accident took place on 5th September, 2009 involving the offending vehicle, i.e. Trailer bearing Registration No.OR-14F-2682. Undoubtedly the claim application was filed on 26th June, 2014. But such delay in filing the claim application would not itself nullify the case of the claimant. The claimant has categorically stated in the application regarding the accident, his sustenance of injuries in the accident and his continues treatment thereafter. So this Court does not find any merit in the contention of the Appellant to disbelieve the case of the claimant only for the delay in presenting the application.

6. It is further seen from the records that immediately after the accident, the claimant was treated at Ispat General Hospital, Rourkela. When the fracture in spinal cord was noticed at L-1, it was surgically managed with pedicle screw fixation at Ispat General Hospital. Due to further complicacies, he was referred to the Christian Medical College, Vellore, wherein he underwent higher treatment as per the discharge summery under Ext.9. The history of his treatment as mentioned under Ext.9 coupled with initial treatment at IGH does not make out any case in favour of the Insurer to disbelieve the contentions of the claimant. Ext.5 further speaks that the claimant suffered with paraplegia trauma with permanent disablement to the extent of

70%. It needs to be mentioned here that no evidence has been adduced from the side of the Insurer and the claimant in his evidence has categorically stated about his initial treatment at IGH, Rourkela and subsequently in other hospitals. So keeping in view the evidence of the claimant (P.W.1) supported with all such materials, his treatment and permanent disablement due to the injuries sustained in the accident cannot be disbelieved. Accordingly, the contention of the Insurer is rejected.

7. There being no further dispute raised with regard to the income of the injured and the amount of compensation quantified by the Tribunal, I do not find any merit to interfere with the same.

8. At this stage, Mrs.Mishra submits that the offending vehicle did not have a valid permit on the date of accident. However, this Court in absence of any evidence in that regard is not inclined to give any definite opinion on the same. As prayed for by the Insurer, it is open for him to seek such right of recovery, if recoverable, from the owner of the vehicle in accordance with law after affording opportunity of hearing to the owner.

9. In the result, the appeal is dismissed and the Appellant is directed to deposit the entire compensation amount along with interest in terms of the direction of the Tribunal within a period of two months from today, whereafter the same shall be disbursed in favour of the claimant keeping 70% of the amount in fixed deposit in any Nationalized Bank for a period of six years.

10. The statutory deposit made by the Appellant along with accrued interest thereon be refunded to him on proper application and on production of proof of deposit of the award amount before the learned Tribunal.

11. Urgent certified copy of this order be granted on proper application.

(B.P. Routray)
Judge

C.R.Biswal