

IN THE HIGH COURT OF ORISSA AT CUTTACK
MACA No.101 of 2021

The Divisional Manager, M/s. National Insurance Company Ltd. *Appellant*

Mr. G.P. Dutta, Advocate

-versus-

Sudam Sahu and Another *Respondents*

Mr. P.K. Sahoo, counsel for Respondent No.1

CORAM:
SHRI JUSTICE B. P. ROUTRAY

ORDER
21.10.2022

Order No.

I.A. No.891 of 2021

08. 1. The matter is taken up through hybrid mode.
2. Heard Mr. G.P. Dutta, learned counsel for the insurer – Appellant and Mr. P.K. Sahoo, learned counsel for claimant – Respondent No.1.
3. In view of the office note and postal tracking report, the notice on the owner - Respondent No.2 is treated sufficient.
4. Upon hearing both parties and considering the grounds mentioned in the application, the delay in filing the appeal is condoned.
5. The I.A. is disposed of.

MACA No.101 of 2021

09. 6. Heard Mr. Dutta, learned counsel for the insurer-Appellant and Mr. Sahoo, learned counsel for claimant – Respondent No.1.

7. Present appeal by the insurer is directed against the impugned judgment dated 5th February, 2020 of the learned 4th MACT, Angul passed in MAC No.18 of 2017 wherein compensation of Rs.23,481/- along with interest @ 6% per annum from the date of filing of the claim application has been awarded on account of injuries sustained by the injured claimant in the motor vehicular accident dated 25th October, 2016.

8. It is contended on behalf of the insurer that the offending bus bearing registration number OR 19L 0900 at the time of accident was travelling carrying passengers beyond its capacity and as such violation of policy condition is well established.

9. Thus considering the number of injured passengers as 64 as well as death of three other persons and that, the permit was in respect of 46 passengers only, the insurer is found entitled for right to recovery.

10. In the result the appeal is disposed of with a direction to the insurer - Appellant to deposit the entire awarded compensation along with interest before the tribunal within a period of two months from today, where-after the same shall be disbursed in favour of the claimant – Respondents in the same term and proportion as contained in the impugned judgment. However, the penal additional interest of 1% is waived.

11. As stated above, it is open for the Appellant to seek such right of recovery of the compensation amount from the owner of the vehicle in accordance with law after affording opportunity of hearing to him.

12. The statutory deposit made by the insurer - Appellant before this court along with accrued interest be refunded to the Appellant on proper application and on production of proof of deposit of the awarded amount before the tribunal.

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

(B.P. Routray)
Judge

M.K.Panda

