

IN THE HIGH COURT OF ORISSA AT CUTTACK
MACA No.501 of 2016

The Divisional Manager, The Oriental Insurance Company Ltd. *Appellant*

Mr. Mohan Ch. Nayak, Advocate

-versus-

Sarat Pattnaik and Another *Respondents*

Mr. B. Singh, counsel for Respondent No.1

CORAM:
SHRI JUSTICE B. P. ROUTRAY

ORDER
17.11.2022

Order No.

09. 1. The matter is taken up through hybrid mode.
2. Heard Mr. M.C. Nayak, learned counsel for the Appellant – insurer and Mr. B. Singh, learned counsel for claimant - Respondent No.1.
3. Present appeal by the insurer is against the impugned judgment dated 26th December, 2015 of the learned 3rd MACT, Bhubaneswar passed in MAC Case No.10/492 of 2007-06, wherein compensation to the tune of Rs.88,360/- along with interest @ 7% per annum from the date of filing of the claim application, i.e. 3rd November, 2006 has been granted on account of injuries sustained by the injured – claimant in the motor vehicular accident dated 17th March, 2006.
4. Mr. Nayak contends that the offending motor cycle bearing registration number OR 02J 7683 was not validly insured on the date of accident. In this regard by filing I.A. No.1083 of 2022 with a

prayer to adduce additional evidence, it is submitted by Mr. Nayak that the insurance policy was taken in respect of the offending vehicle with effect from 20th March, 2006 to 19th March, 2007.

5. The accident took place on 17th March, 2006. No evidence was adduced from the side of the insurer or even no specific pleading was taken in the W.S. denying validity of the insurance policy on the date of accident in respect of the offending vehicle. As per the observations of the tribunal, the offending vehicle was having a valid insurance policy till 20th March, 2006. Therefore from the averments of the insurer made in the I.A., filed praying to adduce additional evidence, the inference deduced is that the earlier policy was valid till 20th March, 2006 whereafter the new policy was taken upon renewal.

6. So, in absence of any specific pleading to deny the validity of the insurance policy on the date of accident and in absence of any evidence adduced by the insurer before the tribunal, no merit is seen in the contention of Mr. Nayak to deny the case of the claimants regarding validity of the insurance policy.

7. In the result, the appeal is dismissed and the insurer – Appellant is directed to deposit the entire compensation amount before the tribunal along with interest as per it's direction, within a period of two months from today, where-after the same shall be disbursed in favour of the claimant – Respondent on same terms and proportion as contained in the impugned judgment.

8. 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.

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

(B.P. Routray)
Judge

M.K.Panda

