

IN THE HIGH COURT OF ORISSA AT CUTTACK
MACA No.1334 of 2015

*The Divisional Manager, United India
Insurance Company Ltd.* *Appellant*

Mr. Subrat Satpathy, Advocate

-versus-

Sunakar Sahoo and Another *Respondents*

Mr. B.N. Samantray, counsel for Respondent No.1

CORAM:
SHRI JUSTICE B. P. ROUTRAY

ORDER
14.9.2022

Order No.

I.A. No.734 of 2022 & MACA No.1334 of 2015

18. 1. The matter is taken up through hybrid mode.
2. Heard Mr. S. Satpathy, learned counsel for the insurer – Appellant and Mr. B. N. Samantray, learned counsel for claimant – Respondent No.1.
3. The main contention of the insurer is to the effect that the offending truck bearing registration number OSU 8409 was not validly insured with the Appellant on the date of accident.
4. As seen from the impugned judgment that the learned tribunal has discussed this in detail at paragraph 8. Admittedly, the insurer has not adduced any evidence. The insurer before this court files a petition praying to adduce additional evidence and it is interesting to note that the nature of such additional evidence sought to be adduced is the affidavit sworn by an officer of the company, who is working as Assistant Manager, saying that the offending vehicle was not insured

with their branch at Bhubaneswar. Keeping in view this nature of evidence sought to be adduced, the same is rejected outright as not permissible within the purview of Order 41, Rule 27 of the C.P.C.

5. When admittedly no evidence has been adduced from the side of the insurer and it is the consistent case of the claimant based on police seizure report that the vehicle was insured on the date of accident and supported by the owner in his written statement, it is incumbent upon the insurer to prove their contention by adducing reliable evidence. Moreover, it is seen that the amount of compensation is only to the extent of Rs.20,000/-. As such, no merit is seen in the contention of the insurer to disbelieve claimant's case that the offending vehicle was validly insured with the Appellant.

6. Resultantly the appeal is dismissed and the insurer – Appellant is directed to deposit the award amount along with interest before the tribunal within a period of two months from today, which shall be disbursed in favour of the claimant as per the direction of the Tribunal.

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

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

(B.P. Routray)
Judge