IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA No.583 of 2017 & MACA No.582 of 2017

MACA No.583 of 2017
Divisional Manager,
Oriental Insurance Co. Ltd. .... ***Appellant***
Mr.M.C.Nayak, Advocate

-versus-

Trinath Sahu and another .... ***Respondents***
Mr.B.N.Rath, Advocate for Respondent No.1

AND

MACA No.582 of 2017
The Divisional Manager,
Oriental Insurance Co. Ltd. .... ***Appellant***
Mr.M.C.Nayak, Advocate

-versus-

Ch.Mahalaxmi Reddy and another .... ***Respondents***
Mr.B.N.Rath, Advocate for Respondent No.1

CORAM:
JUSTICE B. P. ROUTRAY

ORDER
29.09.2022

Order No.

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

2. Heard Mr.Nayak, learned counsel for the Insurer and Mr.Rath, learned counsel for the claimants.

3. Both the appeals are directed against the common judgment dated 15th March, 2017, wherein the Member, 2nd

MACT (SD), Berhampur has directed for payment of compensation of Rs.70,200/- and Rs.34,200/- in MAC Case No.153/2009 and MAC No.203 of 2012 respectively along with interest @7% per annum from the date of filing of the claim applications on account of injuries sustained by respective claimants.

4. Mr.Nayak contends that the driver of the offending vehicle i.e., Auto rickshaw bearing registration no.OR-07H-6936 did not have a valid driving license on the date of accident and therefore, the insurer is not liable to indemnify the compensation amount on behalf of the owner.

5. Perusal of the impugned judgment reveals that the Tribunal has come to the specific finding that the driving license of the driver expired on 14th December, 2004 and the driver renewed his D.L. from 28th May, 2005. The accident took place on 20th April, 2005. But no material is produced on record to reveal if the owner of the offending vehicle had such knowledge of expiry of validity of the driving license of the driver on the date of accident. No evidence in this regard has been adduced from the side of the insurer. Therefore the insurer is held liable to indemnify the compensation on behalf of the owner in view of the principles decided in the case of ***Nirmala Kothari Vs- United***

India Insurance Company Limited, 2020(4) SCC 49 and ***National Insurance Co. Ltd. v. Swaran Singh, (2004) 3 SCC 297,*** with liberty to recover such amount of compensation from the owner in accordance with law.

6. Upon hearing both parties on the question of quantum of compensation, no reason is found to interfere with the same. It goes without saying that the cross-objection filed by the claimants for enhancement is also rejected. However, the penal interest is waived and the rate of interest is reduced to 6%.

7. In the result, both the appeals are disposed of with a direction to the Insurer-Appellant to deposit the respective compensation amounts before the Tribunal along with interest @6% per annum from the date of filing of the respective claim applications within a period of three months from today; where-after the same shall disbursed in favour of the claimants respectively.

8. The statutory deposit made by the Appellants in both the appeals 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.

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

(B.P. Routray)
Judge

C.R.Biswal