

IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA No.145 of 2014

Purna Chandra Swain

....

Appellant

-versus-

**Umma Charan Pattnaik &
Anr.**

....

Respondents

**CORAM:
JUSTICE BIRAJA PRASANNA SATAPATHY**

**ORDER
07.03.2022**

Order No

- 15.** **1.** This matter is taken up through Hybrid Mode.
- 2.** Heard Mr. D.R. Bhokta, learned counsel for the appellant and Mr. Debasis Sarangi, learned counsel appearing on behalf of Respondent No.1.
- 3.** This appeal has been filed by the appellant i.e. the owner of the offending vehicle challenging the judgment dated 28.11.2013 passed in MAC. Case No. 64/2005 by the learned 3rd MACT, Bhanjanagar, Ganjam.
- 4.** Learned Tribunal vide the said judgment while allowing the claim, directed the appellant to pay compensation amount of Rs. 2,18,500/- with interest @ 6% per annum from the date of filing of the case till its realization.

5. Mr. Bhokta, learned counsel for the Appellant while assailing the judgment on various grounds, raised a specific ground that on the date of accident, the offending vehicle was not plying. Hence, the owner of the vehicle cannot be held liable and that the award passed by the learned Tribunal is improper and unjust. To substantiate such stand Mr. Bhokta, learned counsel for the Appellant draws the attention of this court to the judgment passed in G.R. Case No.237 of 2003 i.e. Ext.A.

6. While going through the said judgment filed by the learned counsel for the Appellant along with the further affidavit filed by him, I found that in the said criminal case, a specific finding is given by the Court that the vehicle was not plying on the alleged date of accident and no evidence was also available on record regarding plying of the vehicle on the date of accident.

7. It is the submission of Mr. Bhokta, learned counsel for the Appellant that even though the aforesaid judgment passed in the criminal case was duly exhibited vide Ext.A, but the learned Tribunal without appreciating the same in its proper prospective, allowed the claim made by Respondent NO.1 by directing the appellant, the owner of the offending vehicle, to pay compensation along with interest as indicated above.

8. Learned counsel appearing for the Respondent No.1 also did not dispute the production of the certified copy of the judgment in the said criminal case vide Ext.A.

9. Having heard learned counsel for the Appellant and learned counsel for the Respondent No.1, I found the submission made by Mr. Bhokta, learned counsel for the Appellant has got

sufficient force and learned Tribunal while passing the impugned judgment has not taken into consideration the findings of the Court in G.R. Case No. 237 of 2003 vide Ext.A.

10. Accordingly, I am inclined to interfere with the impugned judgment passed by the learned Tribunal.

11. While interfering with the same I deem it fit and proper to remit the matter back and direct the learned Tribunal to dispose of the same afresh. It is also directed that while deciding the matter afresh learned Tribunal will permit both the parties to lead any further evidence in respect of their stand.

12. It is also observed that since the claim is of the year 2003, learned Tribunal is directed to take all possible steps to dispose of the matter within a period of 6 months from the date of receipt of this order.

13. Office is also directed to send back the LCR forthwith.

14. With the aforesaid observation and direction, the appeal is disposed of.

(Biraja Prasanna Satapathy)
Judge

Sneha