

IN THE HIGH COURT OF ORISSA AT CUTTACK
MACA No.423 of 2014

Sukanta Kumar Sethi

....

Appellant

Mr. Kishore Kumar Jena, Advocate

-versus-

Sankarsan Sahoo and Another

....

Respondents

Mr. Prasant Kumar Mishra, Advocate for Respondent No.2

CORAM:

SHRI JUSTICE B. P. ROUTRAY

ORDER

5.9.2022

Order No.

- 09.
1. The matter is taken up through hybrid mode.
 2. Heard Mr. K.K. Jena, learned counsel for the claimant – Appellant and Mr. P.K. Mishra, learned counsel for insurer - Respondent No.2.
 3. Present appeal by the claimant is against the impugned judgment dated 1st February, 2014 of the learned 2nd Additional District Judge-cum-MACT, Cuttack passed in MAC Case No.137 of 2002 wherein the tribunal has refused to grant any compensation in favour of the claimant on account of his alleged injuries sustained in the motor vehicular accident dated 6th May, 1999.
 4. Mr. Jena, learned counsel submits on behalf of the Appellant that the tribunal has failed to appreciate involvement of the offending vehicle and erred in believing the contents of the F.I.R. which was lodged in respect of another vehicle.
 5. The offending vehicle as allegedly involved in the accident is bearing registration number OR 04 A 4654 and the F.I.R. was lodged

by P.W.2 mentioning the vehicle bearing registration number OAC 4257 to have caused the accident. One witness each by the owner and insurer were examined in support of their stand regarding non-involvement of the offending vehicle bearing registration number OR 04 A 4654. Admittedly, the copy of the F.I.R. under Ext.A reveals that the vehicle bearing registration number OAC 4257 caused the accident injuring the claimant. The present vehicle, i.e. OR 04 A 4654 was never stated to be involved in the accident in the F.I.R. However, the police upon investigation has though submitted charge-sheet against the driver of the vehicle bearing registration number OR 04 A 4654 but the owner being examined as OPW-1 has denied involvement of his vehicle in the accident in support of his stand taken in the claim application. In addition to the same, P.W.2, the alleged eye-witness and informant has admitted in his cross-examination that the contents of the F.I.R. are true. Therefore keeping in view such evidence adduced from both sides where the evidence of OPW-1, the owner was left un-rebutted being not cross-examined at all, the preponderance of probability is seen heavier against the contention of the claimant. In other words, it is established that the vehicle bearing registration number OR 04 A 4654 was not involved in the accident and the claimant has failed to prove his case in that regard. As such, no merit is seen in favour of the claimant to interfere with the impugned judgment.

6. In the result the appeal is dismissed.

(B.P. Routray)
Judge