

IN THE HIGH COURT OF ORISSA AT CUTTACK
MACA No.884 of 2013

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

.... ***Appellant***

Mr. G.P. Dutta, Advocate

-versus-

Jayachandra Jena and Others

.... ***Respondents***

Mr. S.K. Nayak, counsel for Respondents 1-3
Mr. Somnath Roy, counsel for Respondent No.6

CORAM:
SHRI JUSTICE B. P. ROUTRAY

ORDER
21.9.2022

Order No.

- 23.
1. The matter is taken up through hybrid mode.
 2. Heard Mr. G.P. Dutta, learned counsel for the insurer – Appellant, Mr. S.K. Nayak, learned counsel for claimant – Respondent Nos.1, 2 and 3 and Mr. S. Roy, learned counsel for Respondent No.6- New India Assurance Co. Ltd.
 3. Present appeal by the insurance company is against the impugned judgment dated 30th November, 2011 of the learned 4th MACT, Baripada passed in MAC Case No.243/184 of 2011-09 wherein compensation to the tune of Rs.1,73,500/- along with interest @ 6% per annum from the date of filing of the claim application, i.e. 18th April, 2011 has been granted on account of death of deceased in the motor vehicular accident dated 19th June, 2009.

4. Mr. Dutta, learned counsel contends on behalf of the Appellant that the cover note allegedly issued by present appellant is a fake one and it has never insured the vehicle bearing registration number UP 21N 6229. It is further submitted that coming to know about such forged cover note an F.I.R. has been lodged in Chetganj P.S., Varanasi on 13th June, 2012. The Appellant through I.A. No.172 of 2022 has prayed to adduce additional evidence to that effect. The same is allowed. It is seen from the documents appended to the interlocutory application that neither copy of the F.I.R. nor the police case number is furnished, but the letters of the insurer on different dates of the year 2012 are only annexed.

5. Upon hearing all the parties, it reveals that the truck bearing registration number UP 21N 6229 was standing on the road at the time of accident and the other truck dashed behind it. The tribunal while deciding negligence aspect has attributed 50% negligence on the driver of the said parked truck. The Appellant did not adduce any evidence in support of their contention that the cover note issued by them was a fake one. Rather it reveals from the letters produced through additional evidence that the same are dated beyond 30th November, 2011 on which date the impugned judgment was pronounced. Therefore, no sanctity is seen in all such letters of the insurer – Appellant which do not mention the police case number and the steps taken thereon. Therefore, the claim of the Appellant that it did not issue any such cover note in favour of the offending truck is not found believable in absence of materials produced in support of the same. Accordingly the contention raised on behalf of the Appellant is rejected and the appeal is dismissed.

6. The statutory deposit made by the Appellant before this court along with accrued interest be refunded on proper application.

(B.P. Routray)
Judge

M.K.Panda

