

IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA No.679 of 2018

From the Judgment / Order dated 03.03.2018 passed by the learned A.D.J.-cum-3rd M.A.C.T., Jharsuguda in M.A.C Case No.48/2014.

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Tilakram Satnami & Another

Appellants

-versus-

Kaushal Rohidas & Another

Respondents

For Appellant : M/s. Biranchi Na. Rath,
A.K.Jena & N.Biswal.

For Respondents : M/s. A.A.Kha, SK.Sahoo &
J.P. Tripathy.

PRESENT:

THE HONBLE JUSTICE BIRAJA PRASANNA SATAPATHY

Date of Hearing: 09.05.2022 and Date of Order:13.05.2022

Biraja Prasanna Satapathy, J.

- 1.** This matter is taken up through Hybrid Mode.
- 2.** Heard Mr. B.N.Rath, learned counsel for the Appellants and Mr. A.A.Khan, learned counsel for the Respondent No.2.
- 3.** This appeal has been filed by the Appellants, who are Claimants in MAC Case No.48 of 2014. The Appellants are aggrieved by the judgment dated 03.03.2018 passed by the learned A.D.J.-cum-3rd M.A.C.T., Jharsuguda in M.A.C Case No.48/2014.

4. It is submitted that though the case in hand is a case of death and the appellants in support of the same filed various documents which were duly exhibited vide Ext.1 to 10, but the learned Tribunal without proper appreciation of the same and without applying its judicial mind, dismissed the claim petition vide the impugned judgment dated 03.03.2018.

5. It is further submitted that though learned Tribunal after going through the materials available on record held the deceased to be a gratuitous passenger, but did not award any compensation while dismissing the claim petition.

6. Accordingly, Mr. Rath, learned counsel for the Appellants prayed for interference of this Court and with a prayer to remand the matter to the learned Tribunal for fresh disposal.

7. Mr. Khan, learned counsel for the Respondent-Company on the other hand submitted that the learned Tribunal after proper appreciation of the matter and the provision of law contained under the Motor Vehicles Act rightly dismissed the claim vide the impugned order and no interference is called for by this Court.

8. Heard learned counsel for the Parties and perused the materials available on record, this Court after going through the materials placed by Mr. Rath, learned counsel for the Appellants found that learned Tribunal though came to a finding that the accident took place on 08.04.2018 with the offending vehicle duly insured with the Respondent – Company, but ultimately dismissed the claim

petition on the ground that the liability under Section 147 (1)(b)(i) of the M.V. Act is not attracted in the present case.

9. Be that as it may, since the case in hand is a case of death, this Court is of the considered opinion that learned Tribunal should have decided the matter by taking a holistic view of the same and not on technical ground. Therefore, this Court while setting aside the impugned judgment dated 03.03.2018 passed in M.A.C. Case No.48 of 2014 by the learned A.D.J.-cum-3rd M.A.C.T., Jharsuguda, remand the same for fresh disposal on merit.

10. Accordingly, this Court directs the learned Tribunal to complete the retrial of the case within a period of six months from the date of receipt of this order.

11. It is further observed that both parties will be at liberty to lead any further oral or documentary evidence in support of their respective claims.

12. With the aforesaid observations and directions the MACA stands disposed of.

(Biraja Prasanna Satapathy)
Judge

Orissa High Court, Cuttack
Dated the 13th of May, 2022/Subrat