

IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA No.854 of 2007

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

....

Appellant

Mr. Mahitosh Sinha, Advocate

-versus-

Kumar Panigrahi and Another

....

Respondents

CORAM:

SHRI JUSTICE B. P. ROUTRAY

ORDER

10.02.2022

Order No.

Misc. Case No.1567 of 2007 & MACA No.854 of 2007

- 04.
1. Heard Mr. M.Sinha, learned counsel for the insurer – Appellant.
 2. None appears on call for the claimant – Respondents despite service of notice on them.
 3. Considering the year-old pendency of the appeal the matter is heard on merit along with the question of limitation.
 4. Mr. Sinha fairly submits that the award amount has not been paid to the claimant – Respondents till date and the statutory deposit has been made before this Court.
 5. The present appeal by the insurer is against the impugned common judgment dated 22nd March, 2007 of the learned 2nd MACT, Northern Division, Sambalpur in Misc. (A) Case Nos.199 of 1999(s), 200 of 1999(S), 256 of 2001(S) and 257 of 2001(s). In respect of the

present appeal compensation to the tune of Rs.52,200 along with interest @ 7% per annum from 20th September, 2001, i.e. the date of filing of the claim application has been granted in favour of the claimant in Misc.(A) Case No.199 of 1999 on account of injuries sustained by him in the motor vehicular accident dated 14th December, 1998.

6. There is delay of 78 days in filing the appeal. Apart from this, it is submitted on merit by Mr. Sinha, learned counsel for the Appellant that since the driver of the offending Bus had no valid license on the date of accident and the vehicle which is a passenger bus had no valid permit to ply, the insurer is not liable to indemnify the compensation on behalf of the owner.

7. Having heard Mr. Sinha and considering the limited challenge advanced on merit and keeping in view the settled proposition of law that in such cases the insurer should get a right of recovery of the amount from the owner, the appeal is disposed of with a direction to the insurer to deposit the entire awarded amount before the tribunal along with interest @ 6% per annum from the date of filing of the claim application, i.e. 20th September, 2001 within two months from today, where-after the same shall be disbursed in favour of the claimant as per the directions of learned tribunal contained in the impugned judgment. The insurer – Appellant is given liberty to recover the amount from the owner in accordance with law.

8. The statutory deposit made by the appellant before this court along with accrued interest be refunded to the Appellant - insurer on proper application and on production of proof of deposit of the awarded amount before the tribunal.

9. An urgent certified copy of this order be issued as per rules.

(B.P. Routray)
Judge

M.K.Panda

