

IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA No.429 of 2019

National Insurance Co. Ltd. ***Appellant***

Mr. S.R. Pattanaik, Advocate

-versus-

Dr. Nirod Kumar Gochhayat and ***Respondents***
another

Mr. P.K. Mishra, Advocate for Respondent No.1

CORAM:
JUSTICE B. P. ROUTRAY

ORDER
21.03.2022

Order No.

10.

1. Heard Mr. S.R. Pattanaik, learned counsel for the Appellant-Insurance Company as well as Mr. P.K. Mishra, learned counsel for the Respondent No.1-claimant.

2. Present appeal by the insurer is directed against the judgment dated 09.07.2018 of learned 1st MACT, Dhenkanal in MAC Case No.80/1993 wherein learned Tribunal has granted compensation to the tune of Rs.64,500/- along with 2% interest per annum to the claimant from the date of filing of the claim application, i.e.24.3.1993 on account of injury sustained by him in the motor vehicular accident dated 25.11.1992.

3. Case of the claimant before the learned Tribunal is that while he was coming in his own car from Cuttack to Sambalpur, on the way the truck bearing Regd. No.ORX-4715 in a rash and negligent manner coming from the front direction rushed towards the car. Being frightened and to save the occupants of the car, the claimant who was driving the car turned to his left and resultantly

dashed against a road side banyan tree and sustained injuries in the accident.

4. Learned counsel for the Appellant submits that in the given facts since the truck has not dashed to the car, no negligence can be attributed on the part of its driver to claim compensation.

5. Having heard both the parties, it reveals from the impugned judgment that learned Tribunal upon discussion of the evidence of the eye-witness, who is the injured himself as well as the police papers has fixed the negligence on the part of the driver of the truck for the cause of accident. No fault is seen in the said approach of the learned Tribunal as no evidence was adduced on behalf of the Appellant to rebut the evidence adduced from the side of the claimant.

6. In the result, no merit is seen in the appeal and the same is dismissed.

7. The Appellant- Insurance Company is directed to deposit the entire award amount along with interest in terms of directions of the Tribunal within a period of two months from today before the Tribunal, which shall be disbursed in favour of the claimant.

8. On deposit of the award amount before the learned Tribunal and filing of a receipt evidencing the deposit with a refund application before this Court, the statutory deposit made before this Court with accrued interest thereon shall be refunded to the Appellant-Insurance Company.

(B.P. Routray)
Judge