

IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA No.501 of 2020

National Insurance Company Ltd.* *Appellant

Mr. S.R. Pattnaik, Advocate

-versus-

Prasant Kumar Rout and Others* *Respondents

Mr. S.N. Kar, counsel for Respondent No.1 &
Mr. G.P. Dutta, counsel for Respondent No.4

CORAM:

SHRI JUSTICE B. P. ROUTRAY

ORDER

18.4.2022

Order No.

I.A. No.793 of 2020

06. 1. Heard Mr. S.R. Pattnaik, learned counsel for the Appellant, Mr. S.N. Kar, learned counsel for claimant – Respondent No.1 and Mr. G.P. Dutta, learned counsel for Respondent No.4.
2. Notice on Respondent No.3 is treated sufficient in terms of provisions contained in Order 5, Rule-9 C.P.C.
3. Upon hearing all the parties and considering the grounds mentioned in the petition the delay in filing the appeal is condoned.
4. The I.A. is disposed of.

MACA No.501 of 2020

07. 5. On the consent of the parties the matter is taken up for final hearing.

6. Present appeal by the insurer has been filed challenging the common judgment dated 20th August, 2019 of learned 2nd MACT, Cuttack passed in Misc. Case Nos.313, 314, 315, 316, 317, 318 and 319 of 2004. The present appeal is in respect of Misc. Case No.314 of 2004 wherein compensation to the tune of Rs.15,000/- along with interest @ 7% per annum from the date of filing of the claim application, i.e. 10th May, 2004 has been granted on account of injuries sustained by the injured-claimant in the motor vehicular accident dated 12th March, 2003.

7. It is submitted by Mr. Pattnaik, learned counsel for the Appellant that since two vehicles, i.e. trekker and truck were involved in the accident, the Tribunal should have taken composite negligence on the part of drivers of both vehicles instead of fixing entire liability on the insurer of the trekker, who is the present Appellant.

8. Perusal of the impugned order reveals that it is the consistent evidence of all the injured persons that the accident caused due to negligence of the driver of the trekker. It is their further evidence that the trekker was driven in a rash and negligent manner with high speed and the accident took place at the diversion point on the road when the truck was coming from opposite direction.

9. In view of such cogent and consistent evidence adduced by the injured victims, no reason is found to shift composite negligence on the driver of the truck and hence the contention raised on behalf of the Appellant is rejected. The appeal is dismissed.

10. The insurer – Appellant is directed to deposit the awarded amount with interest before learned tribunal within a period of two months from today.

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

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

M.K.Panda



(B.P. Routray)
Judge