

IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA No.317 of 2022

***Divisional Manager,
Oriental Insurance Company Limited. Appellant***
Mr.A.A.Khan, Advocate

-versus-

Ganeswar Behera and others Respondents
Mr.P.K.Mishra, Advocate for Respondent No.1

**CORAM:
JUSTICE B. P. ROUTRAY**

**ORDER
23.11.2022**

Order No.

3.

1. The matter is taken up through Hybrid mode.
2. Heard Mr.Khan, learned counsel for the Appellant and Mr.Mishra, learned counsel for Respondent No.1.
3. Present appeal by the Appellant is against the judgment dated 7th December, 2021 of the 4th M.A.C.T., Puri, in M.A.C.T. Case No.431 of 1995, wherein compensation to the tune of Rs.40,000/- has been granted along with interest @6% per annum with effect from the date of filing of the claim application on account of injury sustained by the injured-claimant in the motor vehicular accident on 17th February, 1995.
4. Mr. Khan disputes the status of the injured-claimant as the owner in goods and as per his submission, the injured was a

gratuitous passenger in the offending truck bearing Registration No.OR-02-3305 at the time of accident.

5. Upon perusal of evidence of P.W.1, the injured himself, no such point is seen to support the contention of Mr.Khan to accept the injured as a gratuitous passenger instead of owner of the goods, as concluded by the Tribunal. The pleading as well as evidence is clear and categorical to the effect that the injured was a milkman and he was travelling in the offending vehicle as the owner of the milk containers. Therefore, the conclusion of the Tribunal to treat the injured as the owner of goods is confirmed.

6. With regard to quantum of compensation, it is seen that the Tribunal has granted total compensation of Rs.40,000/-. Keeping in view the extent of permanent disability up to 40% as well as the period of treatment, no interference in the same is warranted.

7. In the result, the appeal is dismissed and the Insurer-Appellant is directed to deposit the entire compensation amount along with interest as per the direction of the Tribunal within a period of two months from today, where-after the same shall be disbursed in favour of the claimant on such terms and proportion contained in the impugned judgment. However, the penal interest to the extent of 9% as directed by the Tribunal is waived.

8. The statutory deposit made by the Appellant with accrued interest thereon be refunded to him on proper application and on production of proof of deposit of the award amount before the learned Tribunal.

9. Urgent certified copy of this order be granted on proper application.

(B.P. Routray)
Judge

C.R.Biswal

