

IN THE HIGH COURT OF ORISSA AT CUTTACK
MACA No.329 of 2022

***Oriental Insurance Company Ltd.,
represented through its Divisional
Manager, Sambalpur Division,
Sambalpur***

....

Appellant

Mr. Somnath Roy, Advocate

-versus-

Birkha Singh Thapa and Others

....

Respondents

CORAM:
SHRI JUSTICE B. P. ROUTRAY

ORDER
20.12.2022

Order No.

02.

1. The matter is taken up through hybrid mode.
2. Heard Mr. S. Roy, learned counsel for the insurer – Appellant. None appears on call for the claimant – Respondents.
3. Office note reveals that notice could not be served on claimant – Respondents 1 and 2 as well as owner – Respondent No.3, as they left the given address.
4. Initially though this court was in favour of re-issuance of notice to the Respondents, but after looking into the amount granted, which is Rs.1,64,500/-, payable along with interest @ 7% per annum, it is not felt apposite to keep the appeal pending further.
5. Mr. Roy mainly contends that the driver of the offending motor cycle bearing registration number OR 23D 5658 did not have a valid licence to drive the vehicle on the date of accident. According to Mr. Roy, the certified copy of the seizure list does not suggest seizure of any such driving licence of the driver.

6. Perusal of the impugned judgment reveals that the police upon completion of investigation have submitted the final form and the present claim application was filed under Section 163(A) of the MV Act. The essence of entire contention put-forth by Mr. Roy, learned counsel for the insurer is to get the right of recovery of the compensation amount from the owner on the ground of absence of driving licence of the driver.

7. Since the claim application was under Section 163(A), this court without getting into details of discussion further, disposes of the appeal by confirming the award amount with further direction that the Appellant – insurer is granted liberty to recover the amount of compensation from the owner in accordance with law, if recoverable, after giving opportunity of hearing to the owner.

8. The insurer – Appellant is directed to deposit the award amount before the tribunal along with interest within two months from today, where-after the same shall be disbursed in favour of the claimant – Respondents on same terms and proportion as contained in the impugned judgment.

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

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

(B.P. Routray)
Judge