

IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA No.143 of 2016

From the Judgment / Order dated 28.12.2015 passed by the
learned 1st M.A.C.T., Keonjhar in M.A.C Case No.73/2014.

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Sabita Rout & Others.

....

Appellants

-versus-

**Ashis Kumar Sahani &
Another**

....

Respondents

For Petitioner : M/s. Mr. Pitambar Jena.

For Opp. Parties : M/s. Sabita Ranjan Pattnaik,
D.Pradhan, N.K.Senapati,
Ranjita Singh.

PRESENT:

THE HONBLE JUSTICE BIRAJA PRASANNA SATAPATHY

Date of Hearing: 22.04.2022 and Date of Order: 27.04.2022

Biraja Prasanna Satapathy, J.

1. This matter is taken up through Hybrid Mode.
2. Heard Mr. Jena, learned counsel for the Appellants and Mr. S.R. Pattnaik, learned counsel for the Claimants-Respondents.
3. The present appellants who were the claimants before the learned Tribunal are aggrieved by the judgment dated 28.12.2015 passed in M.A.C. Case No.73 of 2014 by the learned 1st M.A.C.T., Keonjhar.

4. Vide the said judgment, learned Tribunal dismissed the application filed by the Claimants for grant of compensation in relation to an accident caused on 09.08.2013.

5. It is submitted by the learned counsel for the Appellants that in the said accident caused on 09.08.2013, the deceased suffered multiple injuries and shifted to District Head Quarter, Hospital, Keonjhar. Subsequently, the deceased was referred to S.C.B, Medical College & Hospital, Cuttack for better treatment and while undergoing such treatment, he succumbed to the injuries.

6. It is also submitted that subsequent to the accident a F.I.R was lodged before the Officer-in-Charge, Suakati Outpost on 10.08.2013 by the brother of the deceased. In the said F.I.R, it was indicated that while the deceased was moving in a motor cycle, he stopped near the market to take some tea. It is alleged that while standing beside the road an unknown vehicle caused the accident and he succumbed to the said injury.

7. It is also submitted that though in the F.I.R dated 10.08.2013, it was indicated that an unknown vehicle caused the accident, but while filing the claim application and basing on some reliable information, it was indicated that the Vehicle No.OR09-A-2518 has caused the accident. But during investigation, the local police came to know that the offending vehicle bears Registration No.OD09-A-2518 and the I.O. not only seized the said vehicle bearing Registration No.OD09-A-2518 but also seized the insurance

policy vide Policy No.55270031136300034651 valid till 26.06.2014, the original fitness certificate, original driving licence of the driver Saroj Kumar Behera and other relevant documents. The said seizure list was also exhibited as Ext-3/A and 4 by the learned Tribunal.

8. Mr. Jena, submitted that even though the I.O. during investigation found that the offending vehicle bears Registration No.OD09-A-2518 and not only seized the vehicle but also seized the relevant documents, but while submitting the final form, the Vehicle Number was wrongly mentioned as OR09-A-2518 in place of OD09-A-2518.

9. It is submitted that the learned Tribunal without proper appreciation of the documents submitted vide Ext.-3/A and 4, relied on the Vehicle Number indicated in the final form and held that since the accident was not caused by the vehicle No.OR09-A-2518, the claim application was rejected vide the impugned judgment dated 28.12.2015.

10. It is also submitted that since Ext.-3/A and 4 were exhibited without any objection, the same are acceptable documents in the eye of law and it cannot be disputed either by the learned Tribunal or by the Respondent-Company.

11. It is also submitted that because of such wrong committed by the I.O. coupled with the wrong mentioning of the vehicle number in the claim application, learned Tribunal rejected the claim vide the impugned judgment. But the fact remains that the I.O not only seized the offending vehicle bearing Registration No. OD09-A-2518,

but also seized all documents and wrongly filed the final form by indicating the Vehicle Number as OR09-A-2518.

12. Accordingly, Mr. Jena, learned counsel for the Appellant submitted that because of such wrong committed by the I.O and acceptance of the same by the learned Tribunal without proper appreciation, the claim application of the claimants were rejected and thereby they are deprived from getting the benefit of compensation.

13. Mr. Pattnaik, learned counsel appearing for the Respondent-Company while supporting the impugned judgment submitted that since the offending vehicle as indicated in the final form has not caused the accident, the Appellants/Claimants are not entitled to get any compensation and learned Tribunal has rightly rejected their claim. But it is not disputed by Mr. Pattnaik, learned counsel for the Respondent that the I.O during investigation not only seized the offending vehicle but also prepared seizure memo, which was duly exhibited as Ext.3/A and 4.

14. Accordingly, Mr. Pattnaik, learned counsel for the Respondent-Company submitted that the learned Tribunal has rightly rejected the claim and no interference by this Court is called for.

15. Heard learned counsel for the parties at length.

16. Perused the materials available on record. It is not disputed that during investigation the I.O seized the offending vehicle bearing Registration No. OD09-A-2518 and seized all the relevant documents, which are required

in a case of present nature. A kind glance to the documents seized by the I.O. and exhibited vide Ext.-3/A and 4 clearly shows that the offending vehicle was having necessary insurance policy during the relevant time and all other documents were valid as on the date of accident. But simply because of the wrong mentioning of the vehicle number in the final form as OR09-A-2518, learned Tribunal rejected the claim without proper appreciation of the Ext.-3/A and 4 and without applying judicial mind to the facts of the present case. As indicated above, the F.I.R was lodged against an unknown vehicle and while making the claim application the vehicle number was wrongly mentioned as OR09-A-2518 in place of OD09-A-2518 basing on some personal information. Therefore, because of such inadvertent mistake by the Claimants in indicating the said vehicle number in the claim application coupled with the indication of the vehicle number mentioned the final form. Learned Tribunal in view of Ext.3/A and 4 should not have rejected the claim by holding that the offending vehicle OR09-A-2518 since has not caused any accident, the Claimants are not entitled to get compensation.

17. In view of such error committed by learned Tribunal in not appreciating Ext.3/A and 4 in its proper perspective, this Court has got no hesitation in setting aside the impugned judgment dated 28.12.2015 passed in M.A.C Case No.73 of 2014 by the learned 1st M.A.C.T., Keonjhar. While setting aside the said judgment, this Court remands the matter to learned Tribunal for fresh disposal in accordance with law by giving reasonable

opportunity of hearing to all the parties and to lead their evidence both oral and documentary. Since the accident is of the year, 2013 and Claimants have suffered a lot in the meantime, this Court directs the learned Tribunal to make all endeavor to dispose of the matter in M.A.C. Case No.73 of 2014 within a period of six months from the date of receipt of the order.

18. With the aforesaid observations and directions, the MACA stands disposed of.

(Biraja Prasanna Satapathy)
Judge

Orissa High Court, Cuttack
Dated the 27th of April, 2022/Subrat

