

IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA No.516 of 2016

Divisional Manager, M/s.New India Assurance Company Ltd. ***Appellant***

Mr. N.B. Das, Advocate

-versus-

Renubala Sahu and others ***Respondents***
Ms. K.L. Dash, Advocate for Respondent Nos.1 to 5

CORAM:
JUSTICE B. P. ROUTRAY

ORDER
08.08.2022

Order No.

14.

1. Heard Mr. N.B. Das, learned counsel for the Appellant-Insurance Company as well as Ms. K.L. Dash, learned counsel for the Respondent Nos.1 to 5-claimants.

2. Present appeal by the insurer is directed against the judgment dated 10.12.2015 of learned 3rd M.A.C.T., Bhubaneswar in M.A.C.T. Case No.112/484 of 2009-06 wherein compensation to the tune of Rs.6,32,000/- has been granted along with simple interest @7% both pendentelite and future to the claimant from the date of filing of the claim application, i.e.1.11.2006 on account of death of the deceased in the motor vehicular accident dated 17.10.2006.

3. The main contention of the insurer-Appellant is to the effect that though the driver of the offending Truck bearing Registration No.OR-05-9711 was not possessing valid driving license, but a fake one, the learned Tribunal has failed to appreciate the same

and without assigning reasons thereof has concluded that the driver was having a valid license.

4. Upon hearing Mrs. K.L. Dash, learned counsel for the claimants-Respondent Nos.1 to 5 and perusal of the impugned judgment, it reveals from paragraph 5 that the Tribunal has concluded about the fact of valid license of the driver since no offence under the M.V. Act was alleged against him in the Police report. Such relevant findings are reproduced below.

“XX .. Although, the seizure list does not disclose the validity period of the DL, no offence has been arrayed against the driver of the truck for driving without valid driving license. Therefore, I feel the driving license was also valid at the time of accident. Accordingly, the petitioners have been able to prove that the owner of the offending truck has complied all the conditions as per the insurance policy for which OP No.2 is to pay the compensation on behalf of OP No.1”

5. Nevertheless, no such material could be produced either before the Tribunal or along with the appeal in support of the contention of the insurer that the driving license of the driver was fake and not genuine. As such, no merit is seen in such contention of the insurer that the driving license of the driver was fake or the finding of the Tribunal to that effect is erroneous.

6. As such, the appeal is dismissed being without merit. It is needless to say that no serious challenge is raised in respect of the quantum of compensation, which otherwise appears just and proper considering the evidence of the witnesses regarding income of the deceased.

7. 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

B.K. Barik

