

IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA No.1220 of 2016

The Dy. Manager (T.P. Hub), The New Appellant
India Assurance Co. Ltd.

Mr. S. Roy, Advocate

-versus-

Akhya Naik and another Respondents
Mr. B.K. Nayak (3), Advocate for Respondent No.1

CORAM:
JUSTICE B. P. ROUTRAY

ORDER
12.09.2022

Order No.

16.

1. Heard Mr. S. Roy, learned counsel for the Appellant-Insurance Company and Mr. B.K. Nayak(3), learned counsel for the Respondent No.1-claimant. None appears on call for the owner-Respondent No.2 though the names of a set of lawyers are indicated in the list.

2. Present appeal by the insurer is directed against the judgment dated 11.08.2016 of learned 3rd M.A.C.T., Nayagarh in M.A.C. No.76/2010 wherein compensation to the tune of Rs.1,00,000/- has been granted along with interest @7% per annum to the claimant from the date of filing of the claim application, i.e.13.12.2010 on account of injury sustained by him in the motor vehicular accident dated 25.8.2006.

3. The entire contention of the insurer-Appellant is that the offending vehicle was not validly insured on the date of accident

and as such the Insurance Company is not liable to indemnify the owner.

4. Upon perusal of the impugned judgment, it reveals that no evidence has been adduced from the side of the insurer to prove their contention that the offending vehicle, i.e. Mini truck bearing Regd. No.OR-24-6977 was not validly insured on the date of accident.

5. On the other hand, it is seen that the Police has seized the insurance certificate of the offending vehicle along with other documents. Thus in absence of any material produced from the side of the insurer, it is prima facie satisfied that the offending vehicle was having valid insurance policy.

6. Accordingly, the appeal is disposed of with a direction to the Appellant-Insurance Company to deposit the entire compensation amount along with interest before the Tribunal within a period of two months from today, which shall be disbursed in favour of the claimant on same terms and proportion contained in the impugned award. However, as prayed on behalf of the Appellant, it is open for him to seek such right of recovery, if recoverable, from the owner of the vehicle in accordance with law after affording opportunity of hearing to the owner.

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.

8. An urgent certified copy of this order be granted on proper application.

(B.P. Routray)
Judge

