

IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA No.302 of 2021

M/s.New India Assurance Company Limited ***Appellant***

Mr. A.A. Khan, Advocate

-versus-

Prasant Kumar Singh and another ***Respondents***

Mr. K. Das, Advocate for Respondent No.1

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

**ORDER
29.11.2022**

Order No.

05.

1. Heard Mr. A.A. Khan, learned counsel for the Appellant as well as Mr. K. Das, learned Advocate for the Respondent No.1.

2. Present appeal by the insurer is directed against the judgment dated 27.01.2021 of learned 2nd M.A.C.T., Cuttack in Misc. Case No.152/2001, wherein compensation to the tune of Rs.1,96,400/- has been granted along with interest @7% per annum to the claimant from the date of filing of the claim application, i.e. 20.02.2001 on account of injury sustained by him in the motor vehicular accident dated 28.08.2000.

3. Mr. Khan, learned counsel for the Appellant submits that the driver of the offending vehicle, i.e., Bus bearing Registration No.OR-25-J-06747 was without a valid driving license and therefore, the insurer is not liable to indemnify the compensation

amount. Mr. Khan further questions the quantum of compensation stating the same as exorbitantly high.

4. Upon hearing Mr. Das, learned counsel for the Respondent No.1 and perusal of the impugned judgment, it reveals that neither any evidence was adduced nor any specific pleading was taken on behalf of the insurer before the learned Tribunal to the effect that the accused-driver did not have valid driving license or possessing any fake DL, at the time of accident. Thus such submissions made by Mr. Khan at this stage to dispute the DL of the driver are rejected.

5. With regard to the compensation amount, the same is found reasonable and just in view the discussions arrived by the learned Tribunal. The learned Tribunal has elaborately discussed each heads for counting the compensation in terms of the principles decided in the case of ***Raj Kumar vs. Ajay Kumar and another, (2011) 1 SCC 343*** and as such, no infirmity is seen to warrant any interference in the same.

6. In the result, the appeal is dismissed and the Appellant is directed to deposit the entire compensation amount along with interest before the learned Tribunal as per its direction within a period of two months from today; whereafter the same shall be disbursed in favour of the injured-claimant on same terms and proportion as contained in the impugned judgment.

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.

(B.P. Routray)
Judge

