

IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA No.928 of 2019

Pitambar Sahu

.... ***Appellant***
Mr.A.K.Otta, Advocate

-versus-

Dulabh Sahu and another

.... ***Respondents***
Mr.M.Sinha, Advocate for Respondent No.2

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

**ORDER
20.10.2022**

Order No.

8.

1. The matter is taken up through Hybrid mode.
2. Heard Mr.Otta, learned counsel for the Claimant-Appellant and Mr.Sinha, learned counsel for Insurer-Respondent No.2.
3. Present appeal by the Appellant is against the judgment dated 9th September, 2019 of the Addl. District Judge-cum-III M.A.C.T., Dharamagarh in MAC Case No.1352 of 2010/259 of 2017, wherein compensation to the tune of Rs.50,000/- has been granted along with interest @6% per annum with effect from the date of filing of the claim application on account of injury sustained by the claimant in the motor vehicular accident on 15th December, 2008.

4. Mr.Otta, learned counsel for the claimant-appellant while praying for enhancement of the compensation amount submits that his fracture of knee sustained in the accident resulting to consequent permanent disability to the extent of 20% was not at all accounted for by the Tribunal in determining compensation amount.

5. Mr. Sinha, learned counsel for the Insurer on the other hand submits that the disability claimed by the injured is not at all established vis-à-vis injury sustained by him as per the injury report and therefore, the Tribunal has rightly disbelieved the same.

6. It is seen that the accident took place on 15th September, 2008. The Tribunal has directed payment of compensation to the tune of Rs.50,000/- taking into account the nature of injuries mentioned in the injury report under Ext.4/a. What is submitted on behalf of the claimant that he in fact suffered with fracture of knee, is not supported with the contents of the injury report. At the same time, the discharge summery under Ext.6 issued by Cuttack Nursing Home Pvt. Ltd., which is a private hospital, is not found supportive with any further document. The injured has also not examined the author of Ext.6. In such view of the matter, the contents of injury report under Ext.4/a appear more probable than the contents of Ext.6.

7. Secondly, the disability certificate under Ext.12 is dated 5th November, 2016 i.e. more than eight years after the accident. Therefore, it is difficult to connect such disability mentioned in Ext.12 with the injury sustained in the accident dated 15th

September, 2008. As such, no merit is seen in the contention of the Appellant to justify the findings of the Tribunal or to interfere with the same.

8. In the result, the appeal is dismissed.

(B.P. Routray)
Judge

C.R.Biswal

