

IN THE HIGH COURT OF ORISSA AT CUTTACK
MACA No.973 of 2019

*National Insurance Company Ltd.,
represented through its Officer-in-
Charge, Orissa Legal Cell, Cantonment* *Appellant*
Road, Cuttack

Mr. J.R. Deo, Advocate

-versus-

Sukhchan Sabar and Another *Respondents*

Mr. D. Mund, counsel for Respondent No.1

CORAM:
SHRI JUSTICE B. P. ROUTRAY

ORDER
18.11.2022

Order No.

10. 1. The matter is taken up through hybrid mode.
2. Heard Mr. J.R. Deo, learned counsel for the insurer -Appellant
 and Mr. D. Mund, learned counsel for the claimant – Respondent
 No.1.
3. Present appeal by the insurer is against the impugned judgment
 dated 19th August, 2019 of the learned 3rd MACT, Dharamgarh passed
 in MAC No.27 of 2017, wherein compensation to the tune of
 Rs.2,84,000/- along with interest @ 6% per annum from the date of
 filing of the claim application, i.e. 10th August, 2017 has been granted
 on account of death of deceased Santi Sabar in the motor vehicular
 accident dated 2nd September, 2016.
4. Mr. Deo contends on behalf of the Appellant that the deceased
 is the woman, whose younger son is the driver of the offending

vehicle, elder son is the owner of the vehicle and husband is the claimant. He further submits that the driver of the offending motor cycle bearing registration number OD 08G 5052 was minor on the date of accident and was not possessing the driving licence.

5. It is seen from the evidence of P.W.1 – claimant that he has admitted at paragraph 11 in his deposition that the age of the accused driver namely Madhab Sabar is less than 18 years, and the police investigation papers are ample clear that the driver of the offending motor cycle was not possessing a valid driving licence on the date of accident.

6. Therefore, it is clear that this is not only a case of violation of policy condition, but also a case where the driver is legally incompetent to drive the offending motor cycle at the time of accident. But considering the meager amount of compensation, which is to the tune of Rs.2,84,000/-, and further considering the background facts of the case, the insurer is directed to pay the compensation amount as directed by the tribunal along with interest within a period of two months from today and recover the amount from the owner of the offending motor cycle in accordance with law. Upon deposit of the compensation amount before the tribunal, the same shall be disbursed in favour of the claimants on same terms and proportion as contained in the impugned judgment.

7. The statutory deposit made by the insurer - Appellant before this court along with accrued interest be refunded to the Appellant on proper application and on production of proof of deposit of the awarded amount before the tribunal.

8. The Appeal is disposed of and the copy of deposition of P.W.1, produced by Mr. Deo, is kept on record.

9. An urgent certified copy of this order be issued as per rules.

(B.P. Routray)
Judge

M.K.Panda

