

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.36809 of 2020

Ashok Behera

....

Petitioner

-versus-

**Manager, S.V.C. M/s. Oriental
Insurance Co. Ltd., Khurda &
Ors.**

....

Opposite Party

CORAM:

JUSTICE BIRAJA PRASANNA SATAPATHY

**ORDER
25.11.2022**

Order No

- 10.** 1. This matter is taken up through Hybrid Arrangement (Virtual/Physical) Mode.
2. Heard Mr. J.D. Barik, learned counsel for the Petitioner and Mr. P.K. Mahali, learned counsel appearing for O.P. No. 1 as well as Mr. D.K. Mohanty, learned Addl. Standing Counsel appearing for State-Opp. Parties.
3. On the oral prayer made by Mr. Barik, he is permitted to implead Insurance Ombudsman, Bhubaneswar as O.P. No. 3 in Court today.
4. This writ Petition has been filed challenging the order dtd.16.06.2020 passed by the Insurance Ombudsman, Bhubaneswar under Anenxure-6.
5. It is contended by the learned counsel for the Petitioner that for the alleged accident the Petitioner when made a claim, that was originally repudiated by the O.P. No. 1-Company on the ground that the driver of the offending vehicle was intoxicated during the relevant time. Against the said order of repudiation, the Petitioner

moved the Insurance Ombudsman. But the Insurance Ombudsman on the self same ground that the driver was intoxicated refused to entertain the claim and passed the impugned order on 17.06.2020 under Annexure-6.

6. It is further contended that pursuant to the order passed by this Court on 07.09.2022 while impleading I.I.C., Jenapur P.S. as an Opp. Party, this Court also directed him to file an affidavit disclosing as to whether the charge sheeted driver was under influence of alcohol at the time of accident or not.

7. Pursuant to the said order an affidavit was filed by the O.P. No. 2/I.I.C., Jenapur P.S. on 26.09.2022 and in the said affidavit it was clearly mentioned that the driver of the offending vehicle has not consumed alcohol at the time of such accident. Placing reliance on such statement placed by O.P. No. 2 Mr. Barik submitted that the initial order passed by the O.P. No. 1 in repudiating the claim of the Petitioner and confirmed by the Insurance Ombudsman vide impugned order at Annexure-6 cannot be sustained in the eye of law. Accordingly, he prayed for interference of this Court in the matter.

8. Mr. Mahali, learned counsel appearing for the O.P. No. 1 on the other hand submitted that Since I.I.C., Jenapur P.S./O.P. No. 2 has stated in the affidavit that the driver of the offending vehicle was not intoxicated during the time of the accident, the Insurance Ombudsman, Bhubaneswar be directed to rehear the matter by giving opportunity of hearing to the Petitioner as well as O.P. No. 1. Mr. Mahali also relied on a decision of this Court passed on 28.03.2018 in W.P.(C) No. 3980 of 2017 in that regard.

9. In view of such stand taken by the learned counsel appearing for the Parties, this Court is inclined to quash the order at Annexure-6 and while quashing the order, directs O.P. No. 3 to rehear the matter by giving opportunity of hearing to both the Petitioner and O.P. No. 1 and dispose of the claim within a period of four (4) months from the date of receipt of this order.

10. However, it is observed that while reconsidering the matter the stand taken by the I.I.C., Jenapur P.S. in his affidavit dtd.26.09.2022 be taken into consideration. Petitioner is directed to provide a copy of this order and the affidavit filed by the I.I.C., Jenapur, P.S. on dt.26.09.2022 before O.P. No. 3 within a period of seven (7) days from the date of receipt of this order.

11. The writ petition is disposed of accordingly.

(Biraja Prasanna Satapathy)
Judge

Sneha

