

IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA No.399 of 2021

The Manager, M/s. Oriental Insurance Co., Ltd.

Appellant

-versus-

Dibya Jyoti Routray & Another

Respondents

**COROM:
JUSTICE BIRAJA PRASANNA SATAPATHY**

**ORDER
15.07.2022**

Order No

06.

1. This matter is taken up through Hybrid Mode.
2. Heard Mr. S.K.Mohanty, learned counsel for the Appellant, Mr. P. Behera, learned counsel for the Claimants-Respondent No.1 and Mr. B.N.Bhuyan, learned counsel for the Owner-Respondent No.2..
3. This appeal has been filed by the Appellant-Company challenging the judgment dated 21.07.2021 passed in MAC Case No.239/2017 by the learned 1st M.A.C.T., Jagatsinghpur.
4. It is submitted that without proper appreciation of the grounds raised by the Appellant-Company held the Claimant-Respondent entitled to get compensation at Rs.3,63,348/- along with interest @ 7 % per annum payable from the date of application till its realization.
5. It is submitted that learned Tribunal while assessing

the compensation never take into consideration the plea raised by the Appellant-Company with regard to plying of the offending vehicle by a Driver, who is not a competent to drive such a vehicle.

6. It is submitted that the driver of the offending vehicle was having licence authorized to drive light motor vehicle. But since the offending vehicle was a heavy motor vehicle, learned Tribunal without considering the said aspect never allowed right of recovery as against the owner.

7. It is also submitted that the rate of interest @ 7 % is on the higher side.

8. Mr. Behera, learned counsel for the Claimant-Respondent No.1 supported the impugned judgment and submitted that learned Tribunal has rightly assessed the compensation and no interference is called for.

9. Heard learned counsel for the Parties.

10. Perused the materials available on record. This Court after going through the same, when came to a finding that the claimant-respondent is entitled to get compensation at Rs.3,00,000/- along with interest @ 6 % per annum payable from the date of application till its realization with right of recovery as against the owner-Respondent No.2. Mr. Behera, learned counsel for the Claimant-Respondent supported the said view of this Court.

11. Mr. S.K.Mohanty, learned counsel for the Appellant left the same to the discretion of this Court.

12. In view of such stand taken by the learned counsel for the Parties, this Court while interfering with the impugned judgment held that the claimant-respondent No.1 is entitled to get compensation of Rs.3,00,000/- along with interest @ 6 % per annum payable from the date of application till its realization with right of recovery as against the owner-respondent No.2. This Court accordingly directs the Appellant-Company to deposit the aforesaid compensation amount before the learned Tribunal within a period of eight weeks from the date of receipt of this order.

13. It is observed that on such deposit of the amount, learned Tribunal shall do well to disburse the same in favour of the claimant-respondent in terms of its order passed on 21.07.2021.

14. It is however observed that if the appellant-company fails to deposit the amount so directed by this Court within the time, the compensation amount of Rs.3,00,000/- will carry interest @ 7 % per annum for the period starting from the expiry of the period eight weeks till its payment.

15. Since this Court is allowing right of recovery as against the owner-Respondent No.2, it is observed that if any such application is moved, learned Tribunal shall proceed with the same strictly in accordance with law and by giving reasonable opportunity of hearing to the owner-respondent No.2

16. It is further observed that only after payment of the entire amount, the appellant-company shall be permitted to take refund of the statutory deposit along with accrued

interest from the Registry of this Court on proper identification.

17. With the aforesaid observations and directions, both the MACAs stands disposed of.

(Biraja Prasanna Satapathy)
Judge

Subrat

