IN THE HIGH COURT OF ORISSA AT CUTTACK
MACA No.182 of 2012
CNR No. ODHC010038652012

(In the matter of application under Section 173(1) of the Motor Vehicles Act, 1988).

Babita Sahu … ***Appellant***

-versus-

Bhagirathi Sahoo and another … ***Respondents***

For Appellant : ***Mr. A. Dash, Advocate***

For Respondents : ***Mr. S.K. Mohanty, Advocate (for R-2); None for R-1***

CORAM: JUSTICE G. SATAPATHY

DATE OF HEARING & JUDGMENT:09.11.2026 (ORAL)

G. Satapathy, J.

MACA No.182 of 2012 & Misc. Case No.315 of 2012

1. This judgment shall not only dispose of the Appeal on merit, but also the Misc. Case No.315 of 2012 filed U/S.5 of the Limitation Act,1963 for condonation of delay of 115 days in preferring the Appeal to challenge the impugned judgment dated 09.08.2011 passed by the learned 2nd Motor Accident Claims Tribunal, Sambalpur (in short, the "Tribunal") in MAC Case No.297 of 1989 directing the United India Insurance Co. Ltd.-cum-R2

herein (In short, "the insurer") to pay the claimant-appellant a compensation of Rs.50,000/- along with simple interest @ 6% per annum w.e.f. three years preceding from the date of judgment till payment is made.

2. The facts in nut shell are that in an accident which took place on 26.06.1989 at about 1PM, the New Maruti Van (In short "the offending vehicle") carrying the Appellant-claimant coming from Cuttack to Rourkela capsized near Motanga resulting in injury to the Appellant-claimant and he was, accordingly, treated at SCBMCH, Cuttack as an indoor patient. An FIR being filed at local police, the same was registered in Motanga PS and upon a claim being filed by the Appellant, the same was registered in MAC No. 297 of 1989. Accordingly, the tribunal proceeded in the matter by issuing notice to the owner and insured of the offending vehicle, but the owner-cum-R1 appeared and filed its written statement only to contend that since the offending vehicle in question being insured with R2, R2 is liable to pay the compensation, but R2 filed its written statement

admitting the insurance policy of the offending vehicle, however, it took a stand in its written statement that since the owner of the vehicle was driving the van and he was not having valid DL, the insurer is not liable to pay the compensation.

3. On the *inter se* pleadings between the parties, necessary issues were framed and only the claimant led oral evidence of three witnesses in addition to documentary evidence under Exts. 1 to 8 as against the documentary evidence of copy of the FIR by the Respondents. On conclusion of the inquiry, the learned tribunal after hearing the parties upon analyzing the evidence on record passed the impugned judgment granting compensation indicated *supra* to the Appellant-claimant. Being aggrieved with the quantum of compensation, the Appellant has challenged the impugned judgment in this appeal.

4. Heard, Mr. Antaryami Dash, learned counsel for the appellant-claimant and Mr. Santosh Kumar Mohanty, learned counsel for R2 in the matter and perused the record. None appears for R1-cum-owner of

the offending vehicle and there being no finding against him, re-issuance of notice against him(R1) stands dispensed with.

5. Admittedly, there is a delay of 115 days, but the appellant is the claimant and the delay in preferring the Appeal has not been challenged by the insurer by filing any written objection and the insurer only challenges such delay by advancing oral objection. Delay of long duration can be taken into account for passing any adverse order in not condoning the delay, but delay of such shorter duration should always be considered liberally. It is also no longer *res integra* that when substantial justice and technical consideration are pitted against each other, the cause of substantial justice deserves to be accepted and the appellant herein being the claimant should not be prevented from agitating his grievance due to delay in filing the Appeal. This Court, accordingly, considers that the delay of 115 days having justifiably explained by the appellant, the same needs to be condoned. Accordingly, the delay of 115 days in

preferring the Appeal stands condoned. Hence, the **Misc. Case No.315 of 2012** stands disposed of.

6. After having considered the rival submissions on merit in the Appeal and upon perusal of record, it appears that the claimant has albeit challenged the award for non-consideration of his Disability Certificate and disallowing interest w.e.f date of filing of claim application, but it appears that the claimant has only exhibited the photo copy of the Disability Certificate, however, no explanation has offered by the claimant as to why the original Discharge Certificate was withheld or not exhibited in evidence. Besides, the Disability Certificate has not been produced before this Court also, but it is claimed by the Appellant that he suffers from 40% permanent disability, however, it is found from the impugned judgment that the Appellant-claimant has sustained fracture of humerus shaft of right side and fracture of both bones of right hands and the treatment paper reveals that nailing had been done in humerus, radius and ulna. It is also not in dispute that the claimant was treated at SCBMCH, Cuttack as an indoor patient from 26.06.1989 till 15.07.1989 and subsequently, he

was also admitted at SCBMCH, Cuttack for removal of implants from 16.07.1990 to 31.07.1990. The claimant has in fact not produced any document in support of his claim for incurring expense of Rs. 30,000/- for his medical treatment, but the learned tribunal has granted Rs. 20,000/- for his treatment and Rs. 10,000/- for pain and suffering as well as Rs. 20,000/- for loss of amenities in life and future inconvenience. Hence, the total compensation as awarded to the claimant is Rs. 50,000/-, but no valid document or any evidence, which were ignored by the tribunal have been highlighted before this Court warranting enhancement of the compensation to the claimant. This Court, therefore, does not find any reason to enhance the compensation amount, but when it comes to imposition of interest, it is found that the learned tribunal has erroneously applied the law while imposing interest on the compensation amount by directing 6% interest payable on compensation w.e.f 3 years preceding from the date of the judgment which needs to be set aside and modified. This Court, however, considers that the Appellant is entitled to interest @ 6 % per annum w.e.f date of filing of the claim application till

its actual realization. At this stage, Mr. Dash, learned counsel for the Appellant, however, clarifies that the award is yet to be satisfied by the insurer and if that be so, the insurer shall satisfy the award within eight weeks hence.

7. In the result, the Appeal stands disposed of accordingly with modification of interest as indicated above. Consequently, the impugned judgment of the learned Tribunal stands confirmed, but the interest shall be payable on compensation w.e.f the date of filing of claim till realization. The insurer is accordingly, directed to pay the modified compensation amount by depositing it before the tribunal for its disbursal to the claimant within eight weeks hence.

(G. Satapathy)
Judge

Orissa High Court, Cuttack,
Dated the 9th day of November, 2026/Priyajit

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Signed by: PRIYAJIT SAHOO
Reason: Authentication
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