A.F.R.

IN THE HIGH COURT OF ORISSA AT CUTTACK
MACA No.476 of 2009
CNR No. ODHC010040342009

(An appeal Under Section 173 of MV Act, 1988).

Dinabandhu Behera … ***Appellant***

-versus-

Prabina Kumar Pradhan … ***Respondent***

For Appellant : ***Ms. S.K. Behera, Advocate on behalf of Mr. G.K. Behera, Advocate***

For Respondent : ***None***

CORAM: JUSTICE G. SATAPATHY

DATE OF HEARING & JUDGMENT:31.10.2026 (ORAL)

G. Satapathy, J.

1. This is an appeal U/S.173(1) of the Motor Vehicles Act, 1988 (In short, "the Act") by the appellant assailing the impugned judgment dated 05.03.2009 passed by the learned Third Motor Accident Claims Tribunal, Bargarh (In short, "the Tribunal") in MAC Case No.92 of 2007 directing the appellant to deposit a sum of Rs.67,608/- before the learned Tribunal for its disbursal to the Respondent-Claimant with further stipulation that if the amount is not deposited, it would carry a simple interest @

9% per annum w.e.f. the date of filing of this application till actual deposit.

2. The facts in background are that in an accident which took place on 19.08.2007 around 12.30 PM, the Motor Cycle of Srikanta Padhan in which the Claimant-Respondent Prabin Kumar Pradhan was proceeding to Sohella from his village Tabada as a pillion rider, was allegedly hit by a Commander Jeep bearing Regd. No. OR-17A-7172 (hereinafter referred to as, "the offending Jeep") resulting in injury to the Claimant-Respondent and he was accordingly shifted to different Hospitals for his treatment. An FIR being filed on this accident came to be registered vide Sohella Police Station Case No.120 of 2007 with commencement of investigation, which resulted in submission of charge-sheet against the driver of the offending Jeep for rash and negligent driving. Upon a claim being filed by the Claimant-Respondent U/S.166 of the Act, the learned Tribunal registered the same vide MAC Case No.92 of 2007 and proceeded with the case by issuing notice to the owner of the offending Jeep. In pursuance to the notice of the claim, the owner of the offending Jeep-

cum-the appellant herein appeared and filed his written statement denying his liability and *inter-alia* pleading that his vehicle was stationary on the extreme left side of the road, but the Motor Cycle of the Claimant-Respondent came in a very high speed with rash and negligent manner and dashed against his stationary Jeep and, therefore, the accident occurring due to rash and negligent act of the Claimant-Respondent, he is not liable to pay the compensation to the Claimant-Respondent. It is, accordingly, prayed by the appellant-cum-owner of the offending Jeep to dismiss the claim.

3. On the rival pleadings of the parties, the learned Tribunal framed necessary issues and allowed the parties to lead evidence and, accordingly, the claimant-Respondent examined three witnesses under PWs.1 to 3 and proved the police papers & certain documents under Exts.1 to 6 as against the oral evidence of two witnesses by the appellant-cum-owner of the offending Jeep. On conclusion of inquiry, the learned Tribunal after appreciating the evidence on record upon hearing the parties, passed the impugned judgment directing the

appellant-cum-owner of the offending Jeep to deposit the compensation amount indicated *supra*. Being aggrieved with the impugned judgment, the owner of the offending Jeep has preferred this appeal.

4. In the course of hearing, Ms. Samridha Krishna Behera, learned Advocate appearing virtually on behalf of Mr. Gopal Krishna Behera, learned Advocate for the appellant submits that the Claimant-Respondent has failed to establish his case, but the learned Tribunal has erroneously directed the owner of the offending Jeep to deposit the compensation amount, however, the evidence on record never discloses that the Claimant-Respondent has established that he sustained injuries in the accident occurred due to rash and negligent driving of the driver of the offending Jeep and, thereby, the owner of the offending Jeep being not liable to pay any compensation, the impugned judgment is otherwise bad in the eye of law and liable to be set-aside. On these submissions, Ms. Behera prays to allow the appeal by setting aside the impugned judgment. None appears for the Respondent despite duly noticed.

5. Having considered the submission advanced on behalf of the appellant and upon perusal of record, it appears that the Claimant-Respondent has not only alleged that the offending Jeep has dashed against the Motorcycle in which he was sitting as a pillion rider, but also the oral evidence together with the documentary evidence under Ext-1 has clearly established such fact. Ext-1 further reveals that Sohella PS Case No.120 of 2007 was registered for the accident caused by the offending Jeep and in such accident, the Claimant-Respondent had sustained injuries, which is further invigorated by the documentary evidence adduced by the Claimant-Respondent under Exts.2 to 5, which are discharge certificate of Gupta Nursing Home, VSS Medical College Hospital, Burla, Prescriptions and Medical Bills. On the other hand, the appellant-cum-owner of the offending Jeep has failed to produce any valid rebuttal evidence to establish that the offending Jeep was kept stationary and the Motorcycle dashed against his stationary vehicle, which is nothing but imagination of the appellant.

6. In a case like this, the doctrine of "*res ipsa loquitur*" clearly gets attracted and the aforesaid doctrine

itself suggests that the thing speaks for itself. In other words, in a case of tort and negligence, the evidentiary rule allows a Court to infer negligence directly from the nature of an accident, even the victim of accident does not produce any direct proof of what wrong the tortfeasor did. In any event, it obviously establishes the negligence of the tortfeasor. It is also important that accident implies negligence, but the type of injury or accident does not normally happen unless someone is careless. It is for the tortfeasor to establish that neither is he responsible nor does he contribute to the injury of the victim in the accident. Once the doctrine is invoked, it creates a strong inference or rebuttable presumption of negligence against tortfeasor and the burden shifts to the tortfeasor to explain what happened and he is required to prove that he was not negligent or responsible. On the other hand, the police charge-sheet itself is an absolute assurance to the case of Claimant-Respondent, and when the genuineness of the documents is not challenged, much less is not controverted, there is no escape from the irresistible conclusion that

accident took place solely due to rash and negligent act of the driver of the offending Jeep.

7. Additionally, once charge-sheet is placed against the driver for driving the offending Jeep in a rash and negligent manner, no further evidence is required to establish that the injured has suffered the consequence of accident due to rash and negligent act of the driver of the offending Jeep. In view of the aforesaid discussions and on consideration of materials placed on record together with the evidence on record and keeping in view the doctrine of "*res ipsa loquitur*", this Court has no other option left, but to concur with the finding of the learned Tribunal that the accident had occurred due to rash and negligent driving of the driver of the offending Jeep and the Respondent-claimant had sustained injuries in such accident.

8. On coming to the next issue of quantum of compensation, it appears that the Respondent-Claimant has produced vouchers and bills to the extent of Rs.27,608/- to which he is definitely entitled to. Besides, he is also entitled to further amount under pain and suffering. Accordingly, the learned Tribunal has granted a sum of Rs.27,608/-

towards treatment, Rs.5,000/- each towards conveyance, medical attendant charges and special diet. In addition, the learned Tribunal has rightly awarded a sum of Rs.25,000/- towards pain and suffering of the injured-Respondent. This Court, therefore, does not find any infirmity in the findings of the learned Tribunal granting compensation of Rs.67,608/- to the Respondent-Claimant, but the interest component on this amount is bit on a higher side, since the learned Tribunal has granted 9% simple interest on the above amount, which according to this Court should be 4% per annum w.e.f. the date of filing of the claim application till realization.

9. In the result, the Appeal being unmerited stands dismissed, but no order as to costs. Consequently, the impugned judgment is, hereby, confirmed, but the simple interest as imposed on compensation be reduced to 4% from 9%. Accordingly, the appellant is, hereby, directed to pay the compensation together with simple interest @ 4% per annum w.e.f. the date of filing of the claim application till realization to the Claimant-Respondent within eight weeks hence. Since the appellant has deposited

Rs.25,000/- towards statutory deposit in this appeal, the statutory deposit together with accrued interest thereon be paid to the Claimant-Respondent and the appellant is, hereby, directed to pay the differential amount by deducting the statutory amount together with the accrued interest thereon from the original award calculated with simple interest @ 4% per annum within eight weeks hence. The Registry is, hereby, requested to send the statutory deposit together with the accrued interest thereon to the concerned Tribunal for its disbursal to the Claimant-Respondent.

(G. Satapathy)
Judge

Orissa High Court, Cuttack,
Dated the 31st day of October, 2026/Subhasmita

Signature Not Verified
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Signed by: SUBHASMITA DAS
Designation: Sr. Stenographer
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Location: High Court of Orissa, Cuttack
Date: 02-Nov-2026 16:36:43