(2021) 12 OHC CK 0102

In the Orissa High Court

Case No : MACA No. 1079 Of 2014

Dambarudhar Sahoo And Another — APPELLANT

Vs

Basanta Kumar Sahoo And Others — RESPONDENT

Date of Decision : 14-12-2021

Acts Referred:
Motor Vehicle Act, 1988 — Section 170

Citation : (2021) 12 OHC CK 0102

Hon'ble Judges : B. P. Routray, J

Bench : Single Bench

Advocate : P.K. Mishra, A.A. Khan

Final Decision : Disposed Of

Judgement

B. P. Routray, J

1. Heard Mr. P.K. Mishra, learned counsel for the Appellant-claimants as well as Mr. A.A. Khan, learned counsel for the Respondent Insurance Company.

2. The present appeal has been filed by the claimants-Appellants against the award dated 30.9.2014 of the learned 3rd MACT, Dhenkanal in MCA Case No.96 of 2009. Learned Tribunal though has granted compensation to the tune of Rs.5,40,000/-along with 7% interest per annum from the date of filing of the claim application, i.e.23.5.2009, but has discharged the insurer from the liability on the ground that no valid insurance policy has been established in respect of the offending vehicle, and secondly, the driver of the offending vehicle had no valid driving license on the date of accident.

3. It is submitted by Mr. P.K. Mishra, learned counsel for the claimants-Appellants that not only the driver of the offending vehicle had the valid driving license on the date of accident but the offending vehicle had a valid insurance policy also in the same number mentioned in the seizure list. In support of his contention, he adduced additional evidence to mark Ext.12 i.e. the certified copy of the driving license before this Court. It is further submitted that the insurer has not disputed

the validity of the policy for the accident concerned.

4. Mr. A.A. Khan, learned counsel for the Insurance Company supports the contention that the offending vehicle had valid insurance policy on the date of accident in the same number as mentioned in the seizure list. He further submits that on verification of Ext.12, the driver is found having valid driving license. It is further submitted that despite having valid driving license and valid insurance policy and despite the owner has contested in the claim application, the same could not be produced on record for his laches and therefore, the insurer should not be saddled with the interest component accrued during pendency of the present appeal for which the owner should be held liable.

5. Having considered the submissions of both the parties and in view of undisputed admission with respect to the driving license of the driver as well as the validity of insurance policy, no further point remains for adjudication in the present appeal. Thus the amount of compensation as directed by the learned Tribunal is liable to be borne by the insurer on behalf of the owner.

6. So far as the prayer of the insurer to exempt him from payment of interest amount during pendency of the present appeal is concerned, the same is rejected for the reason that the insurer was also a contesting party before the learned Tribunal and he had the opportunity of taking all such defence on behalf of the owner in terms of Section 170 of the M.V. Act.

7. However the rate of interest is reduced to 6% per annum considering the facts and circumstances of the case.

8. Accordingly, the Insurance Company is directed to deposit total compensation amount of Rs.5,40,000/- along with interest @6% per annum from the date of filling of the claim application, i.e. 23.5.2009 before the learned Tribunal within a period of eight weeks from today; where-after the same shall be disbursed to the claimants on the same proportion and terms as directed by the learned Tribunal.

9. The MACA is disposed of as allowed.

10. An urgent certified copy of this order be granted on proper application.

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