
(2011) 09 OHC CK 0024
In the Orissa High Court
Case No : M.A.C.A. No. 243 of 2007

Jogendra Chinara

APPELLANT

Vs

Ramaraman Tripathy and another

RESPONDENT

Date of Decision : 26-09-2011

Acts Referred:

Motor Vehicles Act, 1988 — Section 173

Citation : (2011) 09 OHC CK 0024

Hon'ble Judges : B.N. Mahapatra, J

Bench : Single Bench

Advocate : Patitapaban Mishra, P.K. Mishra and P.K. Nanda, for the Appellant; M. Sinha, P.R. Sinha and P.K. Mahali (R-2), for the Respondent

Final Decision : Allowed

Judgement

B.N. Mahapatra, J.—This is an appeal u/s 173 of the Motor Vehicles Act, 1988 (hereinafter referred to as the "Act") filed by the claimant-

Appellant challenging the award dated 15.2.2007 passed by the Member 3rd. Motor Accident Claims Tribunal, Bhubaneswar, (hereinafter

referred to as the "Tribunal"), in Misc. Case No. 110/556 of 2001 on the ground that the amount of compensation awarded by the Tribunal is at

the lower side.

2. The facts of the case are that on 11.7.2001 at about 5.00 A.M. near Barkul on N.H. 5 while the claimant-Appellant was proceeding on the

extreme left side of the road, an Auto-rickshaw bearing Registration No. OR-13-5358 being driven in a rash and negligent manner dashed against

the claimant-Appellant. As a result of such accident, the claimant-Appellant sustained several injuries including brain injury and was taken to

Balugaon hospital for treatment and thereafter shifted to S.C.B. Medical College

and Hospital, Cuttack where he was admitted in the

Neurosurgery Deptt. on 12.7.2001 and remained there as indoor patient till 27.7.2001 and spent Rs. 30,000/- for his treatment. The further case

of the claimant was that he was earning a sum of Rs. 3,000/- per month as a mason.

With these facts the claimant-Appellant filed a claim petition before the learned Tribunal claiming compensation of Rs. 2,00,000/- .

3. The owner of the offending vehicle in his written statement specifically denied the allegation of rash and negligent driving by the driver of the

offending vehicle. He stated that he was not liable for payment of any compensation to the claimant as the offending vehicle was duly insured with

the Insurance Company at the time of accident

4. The Insurance Company filed its written statement denying all the averments made in the claim application and pleaded that the driver of the

Auto rickshaw had no valid driving licence and the vehicle was not covered with a valid Insurance Policy at the time of accident. It also pleaded

that the amount of compensation claimed by the claimant is high and excessive.

5. On the above pleadings of the parties, the Tribunal framed the following issues:

(i) Whether the injured Jogendra Chinara sustained injuries due to motor vehicle accident involving vehicle No. OR-13-5358 (Auto rickshaw)?

(ii) Whether the driver of the offending vehicle was rash and negligent in causing the accident?

(iii) Is the claimant entitled to get compensation and if so to what extent and from which O. Ps.?

6. The claimant examined two witnesses including himself and filed documents marked as Exts. 1 to 8 in support of his claim.

Neither the owner nor the Insurance Company has examined any witness nor was any document filed on their behalf.

7. The learned Tribunal after considering the oral as well as documentary evidence and rival contentions of the parties, awarded a sum of Rs.

40,000/- and directed the Insurance Company to pay the said compensation to the claimant along with interest at the rate of 7% per annum within

a period of one month from the date of filing of the claim application till the date of payment.

8. Learned Counsel for the Appellant submits that considering the age of the

Appellant, the compensation awarded by the Tribunal is extremely

low. He further submits that the matter may be disposed of in the manner and spirit in which the motor vehicle claim cases are disposed of in Lok

Adalat, to which the Learned Counsel for the Insurance Company has no objection.

9. Learned Counsel for the Insurance Company submits that the amount of compensation awarded by the Tribunal is just and proper and needs no interference by this Court and the award has been satisfied.

10. The only dispute remains to be decided in the present appeal is regarding quantum of compensation awarded by the Tribunal. After hearing

Learned Counsel for both the parties and going through the impugned order, this Court feels that further consolidated amount of compensation of

Rs. 22,000/- in addition to the amount of compensation already awarded by the learned Tribunal shall be just and proper compensation.

11. In view of the above, the Insurance Company is directed to pay a further consolidated sum of Rs. 22,000/- (Rupees twenty two thousand) to

the claimant-Appellant within a period of eight weeks from the date of receipt of a copy of this order. The entire amount of Rs. 22,000/- (Rupees

twenty two thousand) shall be deposited before the Tribunal. On deposit of the said amount, the Tribunal shall disburse the same to the claimant-

Appellant on proper identification.

12. In the result, the appeal is allowed in part with the above observations/directions.