
(2013) 08 OHC CK 0052
In the Orissa High Court
Case No : M.A.C.A. No. 1020 of 2009

Nakula Swain

APPELLANT

Vs

Ravi Suresh Ku. Gupta

RESPONDENT

Date of Decision : 06-08-2013

Acts Referred:

Motor Vehicles Act, 1988 — Section 2(24), 2(34)

Citation : (2013) 08 OHC CK 0052

Hon'ble Judges : S.C. Parija, J

Bench : Single Bench

Final Decision : Disposed Off

Judgement

S.C. Parija, J.—Heard learned counsel for the claimants-appellants and learned counsel for the Insurance Company-respondent no. 2. None appears for the owner-respondent no. 1 inspite of service of notice. This appeal by the claimants is directed against the judgment/award dated 10.09.2009, passed by the 3rd Motor Accident Claims Tribunal, Puri, in M.A.C. Case No. 150/290 of 2001, awarding an amount of Rs. 1,76,000/- as compensation along with interest @ 6% per annum from the date of filing of the claim application, i.e. 21.06.2001, till realization and directing the owner of the vehicle-respondent no. 1 to pay the same.

2. Learned counsel for the claimants submits that as the deceased was working as a Coolie under respondent no. 1 and while sitting on the road inside the factory premises, the vehicle (Truck) bearing No. MH-21/5742 suddenly moved backward without any prior indication and dashed against the deceased, as a result of which he sustained severe injuries and subsequently succumb to the injury. It is submitted that merely because the deceased died in an accident arising out of use of motor vehicle inside the factory premises, learned Tribunal has come to hold that the said premises is not a "public place" and therefore the Insurance Company is not liable to pay the compensation amount. In this regard, it is submitted that even if the accident took place inside the factory premises of

the owner-respondent no. 1, the same is a "public place" for the purpose of M.V. Act, even if the entry of person is restricted or regulated, as has been held in the case of M/s. M.K. Bhaumik-vrs.-Sukura Singh and others, in 2011(3) T.A.C. 321 (Ori).

3. Learned counsel for the appellant also relies upon a Division Bench decision of Kerala High Court in Rajan-vrs.-John, 2009(2) T.A.C. 260 (Ker.) in support of his contention that even a private premises of a house where goods vehicle is allowed entry is a public place for the purpose of Section 2(34) of the M.V. Act and therefore the Insurance Company is liable to satisfy the award.

4. Learned counsel for the Insurance Company submits that as the accident took place inside the factory premises of respondent no. 1, the same is not a "public place" as defined u/s 2(34) of the M.V. Act and therefore learned Tribunal has rightly fixed the liability on the owner of the vehicle-respondent no. 2.

5. On a perusal of the impugned award it is seen that learned Tribunal while referring the definition of "public place" as defined u/s 2(24) of the M.V. Act, has come to hold as under:

In the present case the F.I.R. (Ext. 1) discloses that the accident, occurred inside the factory premises. The petitioners' witnesses (P.Ws. 1 & 2) have corroborated that fact in cross-examination. They have admitted that the said factory belongs to a private person. So, it is established that the accident took place inside the factory premises belonging to a private person and the member of public do not as of right, have access to that factory, since the O.P. No. 1 did not come forward to prove that the factory premises is a public place. So, the place of accident cannot be said to be a public place as per the definition under Sec. 2(24) of the M.V. Act. Our Hon'ble High Court have held in the case of Life Insurance Corporation of India-Vrs-Karthiyani and others, reported in AIR 1976 (Orissa), page-21 that Insurance Company cannot be held liable to pay compensation to the third party by way of indemnification if the accident takes place in a private place. In view of that decision since the alleged accident having taken place inside the private factory, the claim of the petitioners is not covered by policy of insurance issued by O.P. No. 2. As already held above, the accident occurred due to rash and negligent driving of the driver of the offending vehicle and it is not the case of the O.P. No. 1 that his driver was not driving that vehicle on his behalf, so being the owner, O.P. No. 1 is liable to pay the compensation to be awarded to the petitioners.

6. This Court in the case of M.K. Bhaumik (supra) referring to various decisions of different High Courts has come to hold that the definition of "public place" u/s 2(34) of the M.V. Act is very wide and the private place used with permission or without permission would amount to a public place. This Court further observed that the term "public place" cannot be given a restricted meaning, inasmuch as, it is not to be taken as a place where public have uncontrolled access at all times. "public place" for the purpose of M.V. Act has to be understood with

reference to the places to which a vehicle has access.

7. In view of the ratio of the decisions referred to above with regard to the meaning of the term "public place", the finding of the learned Tribunal that the Insurance Company cannot be held liable to the compensation is set aside. The factory premises of respondent no. 1 being a "public place", as defined u/s 2(34) of the M.V. Act, the Insurance Company-respondent no. 2 is liable to pay the awarded compensation amount.

8. The Insurance Company-respondent no. 2 is directed to deposit the awarded compensation amount of Rs. 1,76,000/-(Rupees one lakh seventy six thousand) along with interest @6% per annum, from the date of filing of claim application with the learned Tribunal within six weeks hence. M.A.C.A. is accordingly disposed of.