

(2026) 03 OHC CK 1034
In the Orissa High Court
Case No : MACA No. 790 Of 2024

State Of Odisha

APPELLANT

Vs

Lopinti Menaka And Others

RESPONDENT

Date of Decision : 06-03-2026

Acts Referred:

Motor Vehicles Act, 1988 — Section 2(30), 149, 166, 173(1)

Citation : (2026) 03 OHC CK 1034

Hon'ble Judges : G. Satapathy, J

Bench : Single Bench

Advocate : A.K. Pati, S.K. Dash, A.A. Khan

Final Decision : Dismissed

Judgement

G. Satapathy, J

1. The State of Odisha is in an appeal U/S.173(1) of the Motor Vehicles Act (in short, "the Act") against the impugned judgment dated 24.03.2023 passed by the learned 1st Motor Accident Claims Tribunal, Gajapati, Paralakhemundi (hereinafter referred to as the "Tribunal") 2021 directing the State in MAC Case No.03 of to pay a sum of Rs.31,92,000/- to the Respondent Nos.1 to 4-cum-claimants in MAC No.03 of 2021 for the death of their sole bread earner Lopinti Rama Rao (hereinafter referred to as "the deceased") in a motor vehicular accident.

2. Bereft of unnecessary details, the present appeal arises out of MAC No.03 of 2021 filed by the claimants-(R1 to 4) for compensation towards death of the deceased in an accident which took place on 30.11.2018 when the Truck bearing Regd. No.AP-07- TT-3299 (in short, "the Truck") belonging to the deceased under requisition of rent of the Gajapati District Administration to provide relief to the people affected with cyclone "Titili" being driven by one A. Narayan Rao was carrying 2997 numbers of black colour blankets together with the deceased and one Government official namely Malay Kumar Tripathy from Paralakhemundi to

unload the consignment at Mohana Block, Gajapati, on the way on NH-326-A near Badapada Chhak turning, it capsized by hitting the guard wall of the curve resulting in death of the deceased and the other two occupants in the accident. On this accident, R.Udayagiri PS Case No.77 of 2018 was registered and the legal representatives of the deceased approached the learned Tribunal in an application U/S.166 of the Act for compensation by impleading the State of Odisha and insurer of the Truck and pleading inter-alia that the deceased was earning Rs.30,000/- per month and maintaining them(claimants), but due to death of the deceased, they are unable to maintain themselves.

In response to the notice of the claim, the State of Odisha (appellant herein) contested the claim by filing its written statement denying its liability to compensate the claimants, but it admitted the accident with death of the deceased, however, it took further plea that it has paid Rs.4,00,000/- as a ex-gratia compensation to the claimants. The State of Odisha also took further plea in its written statement that since the deceased was the owner of the Truck and died in the accident out of use of such vehicle; he is, thereby, not the 3rd party and the claimants claim for compensation cannot be considered as 3rd party claim. The insurer of the Truck in its written statement denied its liability to pay compensation to the claimants on the ground that since the State had requisitioned the Truck, it was the owner of the said Truck at the relevant time of accident and, thereby, the State is liable for the act of its driver and it, therefore, is liable to pay compensation to the claimants.

3. On inter-se pleadings between the parties, the learned Tribunal struck six issues and, accordingly, allowed the parties to lead evidence, but the claimants only led evidence by examining three witnesses vide PWs.1 to 3 and proved 17 documents under Exts.1 to 17 as against no evidence whatsoever by the State or the insurer of the Truck. After analyzing the evidence on record upon hearing the parties, the learned Tribunal passed the impugned judgment directing the State to pay the compensation indicating supra to the claimants together with simple interest @ 6% per annum w.e.f. filing of petition from 31.03.2021 till realization, but being aggrieved, the State of Odisha has preferred this appeal mainly on the ground to shift the liability of paying compensation to Respondent-insurer (R5).

4. Heard, Mr. Ashok Kumar Pati, learned Additional Standing Counsel and Mr. Soubhagya Kumar Dash, learned counsel for R1 to 4 and Mr. Adam Ali Khan, learned counsel for R5 in the appeal and perused the record.

5. A careful consideration of the rival submissions together with the appeal memo, it unambiguously appears that the State of Odisha challenges the impugned judgment to avoid its liability to pay compensation to the claimants mainly on the ground that the Truck in question belongs to the deceased, who being its registered owner and the vehicle being insured with R5 (OP2in MAC No.03 of 2021), the State cannot be made liable to pay the compensation to the claimants as the owner of the Truck. In answering such issue, the undisputed factual position is that the Truck in question belonging to the deceased was taken

on rent by the appellant at the relevant time of accident for its use in providing relief to the cyclone affected people. The occurrence of accident and death of the deceased in such accident are/were never disputed by any of the parties, but the legal question emerges for consideration in this appeal is who is liable to pay the compensation to the claimants. In order to dispute its liability, the State of Odisha claims himself to be not the owner of the Truck. It is no more res integra that Section 149 of the Act casts a duty on the insurer to satisfy the judgment and award against person insured in respect of 3rd party risks. In this case, the factual position is that the deceased was the registered owner of the Truck and R5(OP2) was his insurer, but the Truck in question met with the accident when such Truck was in active control and possession of the State of Odisha at the relevant time. No doubt, the deceased was the registered owner, but in such factual situation, who would be considered as the owner of the Truck for the purpose of discharging the liability for the death of the deceased arising out of use of such Truck is the real question to be answered in this situation. Section 2(30) of the Act provides for the definition of owner, which reads as under:-

"2(30). "owner" means a person in whose name a motor vehicle stands registered, and where such person is a minor, the guardian of such minor, and in relation to a motor vehicle which is the subject of a hire-purchase agreement, or an agreement of lease or an agreement of hypothecation, the person in possession of the vehicle under that agreement."

6. The undisputed fact is that the Truck in question was under the rent of the District Administration at the relevant time of accident for performing relief work and, thereby, the Truck can be well considered to be under the requisition of the State of Odisha to perform public duty. It can never be disputed that the State of Odisha was in active control and possession of the Truck at the relevant time of accident and, therefore, following the definition of the owner as provided in Section 2(30) of the Act, the State of Odisha being in active possession of the Truck under a contract of rent is considered to be the owner of the Truck at the relevant time, but the deceased cannot be considered as an owner at the relevant time having parted with the control and possession of the Truck to the State of Odisha. In this regard, this Court is fortified with the decision in Naveen Kumar Vrs. Vijay Kumar and others; (2018) 3 SCC 1, wherein the Apex Court at paragraph-11 has held as under:-

"11. The above observations would indicate that a combination of circumstances cumulatively weighed with this Court. Significantly, for the purposes of the present discussion, what emerges from the above judgment is the circumstance that the motor vehicle was on the date of the accident requisitioned by the State Government. Requisitioning by its very nature is involuntary insofar as the person whose property is requisitioned is concerned. This Court observed that it is the person in control and possession of a vehicle which is under an agreement of lease, hypothecation or hire purchase who is construed as the owner and not

the registered owner. The same analogy was drawn to hold that where the vehicle had been requisitioned, it was the State and not the registered owner who had possession and control and would hence be held liable to compensate. *Purnya Kala Devi Vrs. State of Assam*; (2014) 14 SCC 142 does not hold that a person who transfers the vehicle to another but continues to be the registered owner under Section 2(30) in the records of the Registering Authority is absolved of liability. The situation which arose before the Court in that case must be borne in mind because it was in the context of a compulsory act of requisitioning by the State that this Court held, by analogy of reasoning, that the registered owner was not liable."

7. No doubt, the learned counsel for the State has relied upon the decision in *Uttar Pradesh State Road Transport Corporation Vrs. Kulsum and others*; (2011) 8 SCC 142, but on a respectful consideration of such decision, it is found distinguishable from the facts of the present case inasmuch as in the relied on case, the appellant and owner of the vehicle had specifically agreed that the vehicle will be insured and a driver would be provided by the owner of the vehicle, but overall control, not only on the vehicle, but also on the driver, would be that of the State Road Transport Corporation. In the present case, there is no such agreement between the deceased and the State of Odisha. Besides, the State of Odisha while plying the Truck has not entered into any contract with the insurance company for using such vehicle nor has it sought for any permission of the insurance company/insurer. In addition, the evidence on record also suggests that the Truck in question was carrying some relief materials like blankets and an official representative was travelling in such Truck at the relevant time together with the deceased and, therefore, the State of Odisha being the deemed owner of the Truck is liable to pay compensation against the 3rd party claims and the claimants being the legal representatives of the deceased, who was not in actual control and possession of the Truck at the relevant time of accident being the Truck requisitioned by the State/District Administration can be well considered as 3rd party for the purpose of compensation. In such view of the discussions, the plea as advanced by the State of Odisha, however, is found unmerited only liable to be rejected. Accordingly, such plea, being misconceived is hereby rejected.

8. In coming to the other issues, the income and avocation of the deceased was never disputed by the State of Odisha and the compensation as computed by the learned Tribunal is never challenged by the appellant either in its appeal memo or by producing any documents. Additionally, on a careful scrutiny of the computation of compensation as undertaken by the learned Tribunal, this Court hardly finds any error apparent on record; rather the learned Tribunal has taken all the aspects of income of the deceased and calculated the compensation for the claimants by duly applying the law. In computing the compensation, the learned Tribunal has rightly followed the rulings of the Apex Court in extending future prospect to the income of the deceased as well as providing some amount under non-pecuniary head of damages and applying right multiplier method. Further, the claimants have not filed any cross-objection to challenge the

quantum of compensation. In such view of the matter, this Court concur the other findings of the learned Tribunal including the determination of compensation. Hence, there nothing remains to be adjudicated in this appeal, which merits no consideration.

9. In the result, the appeal stands dismissed on contest, but in the circumstance, there is no order as to costs. The appellant is, hereby, directed to satisfy the award within eight weeks hence failing which the claimants are at liberty to realize the same through the process of law. In case deposit of the compensation by the appellant, the same shall be disbursed to the claimants proportionately in terms of the award. The appellant is entitled to refund back the statutory deposit together with accrued interest thereon on production of proof of deposit of compensation before the learned Tribunal.