

IN THE COURT OF THE MEMBER, 3RD MOTOR ACCIDENT CLAIMS
TRIBUNAL, BHUBANESWAR.

PRRESENT:-

Sri I.K. Das, LLB,
Member, 3rd MACT, Bhubaneswar.

MACT Case No. 239 of 1994

Date of argument- Dt. 28.11.13

Date of judgment- Dt. 30.11.13

Nakula Bhata, aged about 38 years
S/o: Late Kelu Bhata, resident of Vill: Kalika
Po/PS/Dist: Nayagarh

... Petitioner

Vrs.

1. Binodini Panda, W/o: Bipra Charan Panda
At/Po: Pottlampur, Dist: Ganjam
2. The Divisional Manager, New India Assurance Co. Ltd.
Master Canteen, Bhubaneswar, Dist: Khurda
3. P.V. Subbia, SGH Building, Bhavanipuram
Vijayawarda, Andhra Pradesh
4. Divisional Manager, United India Insurance Co. Ltd
Sahid Nagar, Bhubaneswar, Dist: Khurda

... Opp. Parties.

Counsels

For the petitioner	...	Sri G.P. Pattnaik, Advocate
For the O.P. No.1	...	None
For the O.P. No.2	...	Sri R.N. Pal, Advocate
For the O.P. No.3	...	None
For the O.P. No.4	...	None

AWARD

1) This is a petition moved by the claim petitioner U/S 166 of Motor Vehicle Act for compensation of Rs. 50, 000/- who was injured in a motor vehicle accident.

2. The brief fact of the case is that on 10.1.94 at about 1.30 PM the

petitioner was going as a passenger in the offending bus bearing Regd. No. ORG 1599, in the meantime, a truck bearing Regd. No. AP 11/T 3679 came in high speed from the opposite direction and due to negligent driving of both the drivers of the offending vehicle, they dashed with each other. As a result of such accident, the petitioner sustained grievous injury on his person. Soon after the accident, the petitioner was shifted to a nearby hospital and as the condition of the injured was serious, he was referred to Berhampur medical college for better treatment. In connection to such accident, Ranpur Police registered PS case No. 10/94 u/s 279/337/338/304 A IPC. The petitioner attributes rash and negligent driving of the drivers of both the offending vehicles. Hence, the claim for compensation.

3. The case against O.P. Nos. 1,3 and 4 was dismissed as they did not appear to contest the proceeding. O.P. No.2, the New India Assurance Co. Ltd filed written statement wherein it challenges the claim of the petitioner. It specifically denies the validity of the driving license and the insurance policy.

4. On consideration of the aforesaid pleadings, the following issues have been framed.

1. Whether on 10.1.94 at about 1.30 PM the petitioner sustained injury due to motor vehicle accident involving vehicle No. ORG 1599 (Bus) and AP 11/T 3679 (Truck) ?
2. Whether the driver of both the offending vehicles were rash and/or negligent in causing the accident ?
3. Whether the petitioner is entitled to get compensation, and if so, as to what extent and from which O.Ps. ?

5. Neither the petitioner nor the Opp. Parties adduced any sort of evidence in order to prove their case.

FINDINGS

Issue Nos. 1 and 2

6. Since some common facts emerged in both the issues, are taken up together for a convenient discussion. In spite of several opportunities the petitioner has failed to take steps against O.P. Nos.1,3 and 4 for which this

Tribunal has dismissed the case against O.P. Nos.1,3 and 4 vide order dtd. 2.11.11. O.P.No.2, the insurance company appeared in the proceeding and filed written statement wherein he denied any such accident that has taken place on 10.1.94. It cannot be taken for granted that the prayer of the claimant will be simply allowed only basing on the pleading. It is the case of the claimant that in relation to the accident FIR was lodged at Ranpur PS vide PS case No. 10/94. During hearing of the case, the claimant neither preferred to call for the police record in order to establish regarding the accident and to show that because of negligence on the part of the drivers of both the offending vehicles he sustained injuries. It is more surprising that the petitioner did not examine himself to support his pleading even if O.P. No.2 filed written statement and contest the proceeding. No other witness from the side of the petitioner is also examined. Again I find that the petitioner sustained multiple injuries due to the accident and he was shifted to nearby Hospital for his treatment from the spot. No medical certificate or injury report is also available on record in order to believe that in fact there was injuries on the body of the claimant. In absence of any evidence and documents it is also not possible to say that a bus bearing Regd. No. ORG 1599 faced accident with another offending vehicle i.e. truck bearing Regd. No. AP 11/T 3679 which resulted in causing injury to the petitioner. Moreover, in absence of any document in relation to the vehicles, it cannot be said which company insured the offending bus and whether O.P. No.2 is liable to pay any compensation to the claimant. It is the cardinal principle in civil proceeding that the petitioner is to prove his case beyond preponderance of probabilities. But, in the instant case, I find the claimant failed miserably to prove his case either by adducing evidence in the Court or by producing any document in support of his pleading. Hence, the case is liable for dismissal with zero award.

A W A R D

The claim application is dismissed without contest against O.P. Nos.1,3 and 4 and on contest against O.P. No. 2 granting nil award in favour of the petitioner.

This award is pronounced in the open court to-day the 30th day of November, 2013.

Member
3rd MACT, Bhubaneswar

Typed to my dictation and corrected by me.

Member
3rd MACT, Bhubaneswar

List of witness examined for the petitioner

None

List of witness examined for the O.Ps.

None

List exhibits marked for the petitioner

None

Member
3rd MACT, Bhubaneswar