

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. 473 of 1996

Date of argument- Dt. 31.10.13

Date of judgment- Dt. 01.11.13

Suresh Chandra Rout, aged about 39 years
S/o: Kanhu Charan Rout, at : Kurumutha, PO: Hadura
PS: Hindol, Dist: Dhenkanal, A/p: Traffic Training School
PS: Laxmisagar, Bhubaneswar, Dist: Khurda

... Petitioner

Vrs.

1. Ashok Kumar Sahu, S/o: Alekh Chandra Sahu
At: Palasuni, PO: Rasulgarh, Bhubaneswar
Dist: Khurda
2. The Divisional Manager, Oriental Insurance Co. Ltd.
Master Canteen, Bhubaneswar, Dist: Khurda

... Opp. Parties.

Counsels

For the petitioner	...	Sri N.R. Swain, Advocate
For the O.P. No.1	...	Sri P.R. Bhuyan, Advocate
For the O.P. No.2	...	Sri N.K. Mohanty, Advocate

AWARD

1) This is a petition moved by the claim petitioner U/S 166 of Motor Vehicle Act for compensation of Rs. 1,00, 000/- who was injured in a motor vehicle accident.

2. The brief fact of the case is that on 16.3.96 at about 4.30 PM the petitioner was coming towards Bhubaneswar from Baranga Bazar in a bus bearing Regd. No. OSX 1591. In the meantime, the offending truck bearing Regd. No. ORX 1077 came in high speed from Nandankanan side towards Baranga bazar

side and dashed against the bus from its front side. As a result of such accident, the petitioner had sustained multiple bleeding injury on his person. Soon after the accident the petitioner was shifted to Capital Hospital for treatment. The petitioner attributes rash and negligent driving of the offending truck in causing the accident. Hence, claim for compensation.

3. O.P. No.1, the owner of the offending truck has been set ex-parte vide order dtd. 2.11.2005. O.P. No.2, the Oriental Insurance Co. Ltd has filed written statement wherein it challenges the claim of the petitioner. He specifically denies the validity of the driving license and the insurance policy of the offending vehicle.

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

1. Whether the petitioner sustained injuries due to motor vehicle accident involving vehicle No. ORX 1077 (Truck) ?

2. Whether the driver of the offending vehicle was 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. ?

4. To what other relief/s the petitioner is entitled to ?

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

FINDINGS

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 did not turn up to adduce any sort of oral or documentary evidence. 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 16.3.96. 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 Baranga PS vide PS case No. 26/96. 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 offending vehicle 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 bleeding injuries due to the accident and he was shifted to Capital Hospital for his treatment from the spot. He was also spent Rs.15,000/- for his treatment. 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 truck bearing Regd. No. ORX 1077 faced with accident which resulted in causing injury to the petitioner. Moreover, in absence of any document in relation to the vehicle, it cannot be said which company insured the offending truck 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. No.1 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 1st 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