

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

PRRESENT:-

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

MACT Case No. 231/248 of 2006

Date of argument- Dt. 18.10.14

Date of judgment- Dt. 28.10.14

Muralidhar Nayak, aged about 55 years
S/o: Bhima Nayak, At: Sumalda
PO: Bhagabatpur, Dist: Kendrapara
A/p: N/6, 171, Nayapalli, Bhubaneswar, Dist: Khurda

... Petitioner

Vrs.

1. Sachidananda Satpathy, S/o: Fakirmohan Satpathy
At; Damodarpur, PO: Sukinda, Dist: Jajpur
2. The Divisional Managar, New India Assurance Co. Ltd.
Cantonment Road, Dist: Cuttack

... Opp. Parties.

Counsels

For the petitioner

... Sri N. Tripathy, Advocate.

For the O.P. No.1

... Sri C.K. Patra, Advocate

For the O.P. No.2

... Sri B.R. Patnaik, Advocate

AWARD

1) The petitioner in this case is an injured in a truck accident on dtd. 20.3.03 on Paradeep-Daitari National Highway. In the meantime, the petitioner was riding his cycle and a truck bearing No. OR 04 C 5246 came with high speed and dashed with him causing multiple injuries on his body. The petitioner was shifted to Balichandrapur PHC and thereafter, to Kendrapara hospital for his treatment. But, he became permanently disabled as the treatment could not yield

any result and therefore, filed compensation.

2. OP No.2, the insurance company contested the case and filed written statement challenging the the contention of the petitioner and further pleaded that the offending truck was not having proper documents including the driving license of the driver.

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

1. Whether the petitioner Muralidhar Nayak sustained injuries due to motor vehicle accident involving vehicle No. OR 04 C 5246 (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 to what extent and from which O.Ps. ?

4. The petitioner in support of his case examined himself and another eye witness to the accident. Due tot he accident, the petitioner was thrown to a distance and sustained fracture on his right hand. He was working as Ayurvedic Kabiraj and was having good income. But, due to the accident, he is unable to do his profession and thereby sustained loss to his income. P.W.2 corroborated the evidence of P.W.1 about the accident and injury to him due to the accident.

Issue No.1

5. Certified copy of police papers in connection to Balichandrapur PS case No. 33/03 is filed in support of investigation of the police case in connection to the accident. The FIR and charge sheet reveals that some persons were sitting in the dala of the truck and due to the accident, they sustained injuries. The investigation of the case, however, discloses that some persons standing at the side of the road also sustained injuries including the present petitioner. Injury report discloses that the petitioner was having some simple injuries only and there was no fracture on his body.

Issue Nos. 2 and 3

6. The seizure list marked Ext.4 shows that the truck in question was having

valid insurance certificate issued by OP No.2 and the driver was having valid DL upto 2.3.04. Although the petitioner claimed that he is an Ayurvedic doctor having good income, no such document is produced before the Tribunal in support of such contention. There is also no medical evidence that due to the injury the petitioner became permanently handicapped causing permanent loss to his income. Therefore, compensation is to be awarded only basing on the injuries and the probable expenditure for the treatment.

7. Although, it is claimed that the petitioner was admitted at Kendrapara hospital for his treatment, no such medical certificate is available in the record. Only the injury report marked as Ext.5 discloses that the injured was having one bruise and two abrasions. All the injuries are simple in nature. Taking into consideration the nature of the injury, I feel if compensation of Rs.5000/- will be awarded, it will meet the ends of justice.

A W A R D

The claim petition is accordingly allowed on contest against O.P. No.2 and ex parte against O.P. No.1 and the amount of compensation is to be paid by O.P. No.2 to the petitioner.

The total compensation amount is determined at Rs. 5000/- (Rupees Five Thousand) only which shall carry simple interest at the rate of 7% both pendentelite and future from the date of filing of the claim petition i.e. 28.6.06 till the date of payment. The O.P. No.2 is directed to pay the compensation amount within two months hence.

This award is pronounced in the open court to-day the 28th day of October, 2014.

Member
3rd MACT, Bhubaneswar

Typed to my dictation and
corrected by me.

Member
3rd MACT, Bhubaneswar

List of witness examined for the petitioner

P.W.1:- Muralidhar Naik

P.W.2- Narahari Jena

List of witness examined for the O.P. No.2

Nil

List exhibits marked for the petitioner

Ext.1:- Certified copy of FIR

Ext.2:- Certified copy of final form

Ext.3: Certified copy of seizure list

Ext.4:- Certified copy of seizure list

Ext.5: Certified copy of injury report

List of Exhibits marked for O.P. No.2

Nil

Member
3rd MACT, Bhubaneswar