

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. 286 of 1998

Date of argument- Dt. 16.09.14

Date of judgment- Dt. 27.09.14

Sudarsan Behera, aged about 20 years
S/o: Basudev Behera, At: Gopalpur
PS: Baramba, Dist: Cuttack, A/p: Raghunathpur
PS: Chandrasekharpur, Dist: Khurda

... Petitioner

Vrs.

1. Gobinda Chandra Sahoo, S/o: Late Banchhanidhi Sahu
At: Damana, PS: Chandrasekharpur, Dist: Khurda
2. The Divisional Manager, New India Assurance Co. Ltd.
Sahid Nagar Bhubaneswar, Dist: Khurda

... Opp. Parties.

Counsels

For the petitioner	...	Sri M.M. Jena, Advocate
For the O.P. No.1	...	None
For the O.P. No.2	...	Sri B.S.N. Murty, Advocate

AWARD

1) This is a petition moved by the claim petitioner U/S 166 of Motor Vehicle Act for compensation of Rs. 80, 000/- who was injured in a motor vehicle accident.

2. On 29.6.98 at about 7 PM, the petitioner was coming from Dadhagoda to Nandankanan by a trolley on the left side of the road. In the meantime, one Tata Truck bearing Regd. No. OR 02 G 5216 came in high speed and dashed against the petitioner. As a result, the injured had sustained bleeding injury on his person. Soon after the accident, the injured was shifted to SCB Medical College & Hospital, Cuttack for treatment. In connection to such

accident, Chandrasekharpur PS case No. 87/98 was registered against the accused driver. The petitioner attributes rash and negligent driving of the driver of offending truck in causing the accident. Hence, claim for compensation.

3. OP No.2, the insurance company has filed written statement challenging the claim of the petitioner. He specially denies the validity of the driving license and the insurance policy of the offending truck.

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

1. Whether the injured, Sudarsan Behera sustained injury due to motor vehicle accident involving vehicle No. OR 02 G 5216 (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. ?

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. In spite of several opportunities the petitioner has failed to adduce evidence in support of his case. 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 29.6.98. 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 Chandrasekharpur PS vide PS case No. 87/98. 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 injuries due to the accident and he was shifted to nearby Hospital for his treatment from the spot. He was also spent some amount of money 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. OR 02 G 5216 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.

A W A R D

The claim application is disposed of 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 27th day of September, 2014.

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

