

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. 287 of 1998

Date of argument- Dt. 16.09.14

Date of judgment- Dt. 27.09.14

Goutam Charan Behera, aged about 21 years
S/o Chakradhar Behera, resident of Vill/PO: Ganagana
PS: Kanpur, Dist: Cuttack, A/p: Raghunathpur
PS: Chandrasekharapur Bhubaneswar

... Petitioner

Vrs.

1. Gobinda Chandra Sahu, S/o: Late Banchhanidhi Sahu
At: Damana, PS: Chandrasekharapur, 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

Applicant is the injured in a motor vehicle accident on dtd. 29.6.98 on Bhubaneswar Nandankanan road. As per the claim petition on the same day at about 7 PM, the petitioner was going in his trolley towards Nandankanan very carefully at the left side of the road. In the meantime, a tata truck bearing Regd. No. OR 02 G 5216 came from the opposite side with high speed in rash and negligent manner and dashed with the trolley for which the petitioner fell down and sustained multiple injuries on his body. Due to head injury, he went to SCB

Medical College, Cuttack for his treatment. The truck was insured by OP No.2, New India Assurance Co. and it is claimed that the truck being validly insured OP No.2 is liable to pay compensation to the applicant.

2. O.P. No.1, the owner of the truck has been set ex parte and OP No.2 contested the case by filing its written statement. OP No.2 did not admit the negligence of the truck driver for the accident and also the insurance of the truck by the company.

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

1. Whether the petitioner Goutam Charan 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 to what extent and from which O.Ps. ?

4. During the course of hearing, petitioner examined himself by filing affidavit evidence. He supported the averments of the claim petition and also filed certified copy of police papers in Chandrasekharpur PS case No. 87/98 which was initiated for the same accident and the driver of the truck was charge sheeted for the offence u/s 279/337 IPC. During his cross examination by OP No.2, the petitioner said that he was sitting on the trolley by the time of accident which was loaded with grocery articles. He further admitted that he has not produced any document regarding his discharge from SCB Medical, Cuttack. The certified copy of police papers shows that on the same day, the accident took place causing injury to the petitioner and the injured was forwarded to SCB Medical College, Cuttack by the police. The injury report further discloses that the injured was having two lacerated injuries on the head and one abrasion. All the injuries are simple in nature. The petitioner filed some cash memos showing purchase of medicines and one CT report of brain is also filed in the Court. It appears that CT scan was made on the brain of the petitioner, but the report was normal. No

evidence has been led on behalf of OP No.2.

5. After perusal of documents and hearing from both the sides and taking into consideration that the petitioner sustained only three simple injuries in the accident in the year 1998, I feel if compensation of Rs.10,000/- is 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 compensation amount to be paid by O.P. No.2 to the petitioner.

The total compensation amount is determined at Rs. 10, 000/- (Rupees Ten 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. 14.12.98 till the date of payment. The insurance company is directed to pay the compensation amount within two months hence.

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
P.W.1:- Goutam Charan Behera
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 injury report
List of Exhibits marked for O.P. No.2
Nil

Member
3rd MACT, Bhubaneswar

