

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. 342/65 of 2001

Date of argument- Dt. 30.10.14

Date of judgment- Dt. 01.11.14

Ramanath Mohapatra, aged about 39 years
S/o: Late Jagannath Mohapatara, At: Patjoshipur
PO: Tadarh, PS: Puri Sadar, Dist: Puri
A/p: Ratnakar Bag, Plot No. 848/1190
Tankapani Road, Bhubaneswar

... Petitioner

Vrs.

1. Saroj Kumar Samal, S/o: Iswar Chandra Samal
Plot No. 78, Lane 2, Jagannath Vihar
PS: Khandagiri, Dist: Khurda

2. The Divisional Manager, New India Assurance Co. Ltd.
Bhubaneswar Division, Dist: Khurda

... Opp. Parties.

Counsels

For the petitioner ... Sri L. Subudhi, Advocate

For the O.P. No.1 ... Sri K.L. Kar, Advocate

For the O.P. No.2 ... Sri S.P. Nanda, Advocate

AWARD

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

2. On 9.8.2000 at about 6 PM, the petitioner was going to his house at Tankapani road from OUAT office by riding his motor cycle bearing Regd. No. OR 02 K 2649. IN the meantime, the offending Maruti Car bearing Regd. No. OR 02 E 2875 came in high speed from Governor house road in high speed and dashed against the petitioner violently. Due to the accident, the petitioner fell

down from his motor cycle and sustained severe multiple injuries on his body. Soon after the accident, the petitioner was shifted to Capital Hospital for treatment. In connection to such accident, Capital PS case No. 328/2000 was registered against the accused driver. The petitioner attributes rash and negligent driving of the driver of offending Maruti Car in causing the accident. Hence, claim for compensation.

2. O.P. No.1, the owner of the offending car has been set ex-parte. O.P. No.2, the New India Assurance Co. Ltd has filed written statement wherein it challenges the claim of the petitioner. It specifically denies the validity of the driving license and the insurance policy of the offending maruti car.

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

1. Whether the petitioner sustained injury due to motor vehicle accident involving vehicle No. OR 02 E 2875 (Maruti Car) ?
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 ?

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

FINDINGS

5. In spite of several opportunities the petitioner has failed to adduce any oral or documentary 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 9.8.2000. 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 Capital PS vide PS case No. 328/2000. 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 car bearing Regd. No. OR 02 E 2875 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 1st day of November, 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