

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. 55/385 of 2001-2000

Date of argument- Dt. 01.11.14

Date of judgment- Dt. 13.11.14

Satyajit Das, aged about 10 years
S/o: Pradipta Kumar Das, Plot No. 115
Budheswari Colony, PS: Laxmisagar, Bhubaneswar
Dist: Khurda, A/p: Qr. No. 2RA 6/1, Unit-IX
Bhubaneswar, Dist: Khurda

... Petitioner

Vrs.

1. Kailash Chandra Panda, of Keonjhar Town
PS: Town, Dist: Keonjhar
2. The Divisional Manager, New India Assurance Co. Ltd.
Keonjhar Branch

... Opp. Parties.

Counsels

For the petitioner	...	Sri L. Subudhi, Advocate
For the O.P. No.1	...	Sri K.C. Kanungo, Advocate
For the O.P. No.2	...	Sri A.K. Das, 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. As per the claim petition, on 10.6.99 at about 4.15 AM, the petitioner was travelling in the offending bus bearing Regd. NO. OR 05 C 5838 as an inside passenger. He was going in the bus named "Gayatri Bus" from Bhubaneswar to Keonjhar. On the way in between Ghatagaon to Dhenkikote, the back side tyre of the bus burst for which the vehicle lost its control. As a result, the the petitioner had sustained serious injury on his left leg. Immediately after

the accident, the father of the petitioner shifted the injured to District Headquarters Hospital, Keonjhar by arranging a private truck. The doctor gave treatment to the injured and found the tibia and fibula of the left leg was fractured. In connection to such accident, Ghatagaon PS case No. 457/99 was registered against the accused driver. The petitioner attributes rash and negligent driving of the driver of offending jeep in causing the accident. Hence, claim for compensation.

3. OP No.1, the owner of the offending bus 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 bus.

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

1. Whether the injured Satyajit Das sustained injury due to motor vehicle accident involving vehicle No. OR 05 C 5838(Gayatri Travel bus) ?
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 reliefs the petitioner is entitled ?

5. Neither the petitioner nor the Opp. Parties adduced oral evidence in support of their respective cases.

FINDINGS

6. Through hearing of the case, the petitioner did not examine himself, although the police papers in connection to the accident are filed. The certified copy of FIR in GR case No. 487/99 discloses the father of the injured submitted the FIR before IIC, Ghatagaon PS on dtd. 10.6.99 in connection to the accident and specifically mentioned that his son while boarding the bus, the backside tyre of the bus burst with high force causing heavy jerk and the

petitioner sustained serious injury in his left leg. The injured was also forwarded for his medical examination and the doctor opined that there was fracture of tibia and fibula of the left leg which was grievous in nature. That apart, the charge sheet filed by the IO discloses that the accident took place as the driver was using damaged tyre and was driving the bus in rash and negligent manner. Accordingly, charge sheet was submitted against the accused driver of the bus for the offence u/s 279/337/338 IPC. The certified copy of the seizure list discloses that during investigation police seized the offending bus alongwith its documents. The insurance certificate bearing No. 248674/99 issued by OP No.2 alongwith the driving license of the accused driver bearing No. 3721/93 was also seized. Both the documents were valid on the date of accident. It is true that no witness has been examined from the side of the petitioner, although certified copy of police papers are filed in support of the case. The provision under MV Act while considering compensation for accident victims being beneficial, I feel this is a fit case where the petitioner is entitled for compensation even though he did not produce himself in the Court to testify his case. The petitioner was only a minor boy at th4 time of accident. No document is produced on behalf of the petitioner showing that he was admitted as indoor patient in any hospital for the treatment of his injuries. However, considering the report of police investigation and the nature of injuries as appears from the medical report, I feel if compensation of Rs. 75,000/- 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 OP 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. 75,000/- (Rupees Seventy 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. 9.11.2000 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 13th 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