



IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA No.753 of 2013

CNR No.ODHC010007292013

(In the matter of application under Section 173(1) of the Motor Vehicles Act, 1988).

Hemanta Kumar Lenka* ... *Appellant

-versus-

Satya Narayan Nayak and another* ... *Respondents

For Appellant : Mr. B.K. Rath, Advocate

***For Respondents : Mr. A.A Khan, Advocate
(for R-2)***

CORAM:

JUSTICE G. SATAPATHY

DATE OF HEARING : 24.09.2026

DATE OF JUDGMENT: 29.09.2026

G. Satapathy, J.

1. This is an appeal U/S.173(1) of the Motor Vehicles Act, 1988 (in short, "the Act") by the claimant-appellant against the impugned judgment dated 04.05.2013 passed in MAC Case No.240/312 of 2004, by which the learned 3rd Motor Accident Claims Tribunal, Bhubaneswar (in short, the "Tribunal") directed the Respondent No.2 (R-2)-Divisional Manager, Bajaj Allianz General Insurance Co. Ltd.,



Bhubaneswar (in short, "the insurer") to pay a sum of Rs.1,15,000/- only with simple interest @ 7% w.e.f. date of filing of the claim on 11.05.2004 till its actual realization to the appellant-claimant.

2. The short facts in background are that on 13.11.2003 at about 7.30 AM, the claimant while travelling on a Moped allegedly hit by a Hero Honda Motor Cycle bearing Regd. No.OR-02-Y-5517 (in short, "the offending Motor Cycle") at Cuttack road near Chintamaniswar Petrol Pump resulting in him sustaining grievous injuries in the accident. An FIR being lodged on this incident came to be registered in Laxmisagar PS Case No.196 of 2003 with commencement of investigation therein resulting in submission of charge-sheet against the rider of the offending motor cycle for rash and negligent riding the Motor Cycle.

2.1. On a claim being preferred by the injured (appellant) to the learned Tribunal, the same was registered in the present claim and the owner and the



insurer of the offending Motor Cycle were noticed, but the owner of the offending Motor Cycle did not contest the claim and was, accordingly, set ex-party on 06.10.2005, but the insurer appeared and contested the claim raising *inter-alia* various pleas including the plea that the offending Motor Cycle had never caused any accident and the claimant sustained injuries due to his own fault or some other reason and, thereby, there is delay of 44 days in lodging the FIR after the accident by planting the offending Motor Cycle. Accordingly, the insurer prayed to dismiss the claim.

3. On the rival pleadings between the parties, necessary issues were framed regarding question of claimant sustained injuries in the accident, causing of the accident by rash and negligent riding by the rider of the offending Motor Cycle and the entitlement of the claimant to the compensation together with other relief, if any. The learned Tribunal accordingly allowed the parties to lead evidence, but only the claimant-appellant led oral and documentary evidence by examining himself as PW1 and exhibiting



the police papers and his medical certificates including discharge certificate together with his income particulars under Exts.1 to 6, but the insurer only led documentary evidence under Exts.A to C. The learned Tribunal by the impugned judgment granted compensation to the claimant indicated supra, but being aggrieved with the quantum of compensation, the claimant preferred this appeal.

4. Heard, Mr. Bibudhendra Kumar Rath, learned counsel for the appellant and Mr. Adam Ali Khan, learned counsel for R-2 in the matter, but none appears for R1-cum-owner of the offending Motor Cycle despite valid notice of the appeal.

5. After having considered the rival submissions upon perusal of record, it appears that the claimant has only challenged the quantum of compensation, but the insurer has not challenged any of the findings of the learned Tribunal, however, the learned Tribunal has granted right to recovery to R-2 by satisfying the award, however, on perusal of the impugned judgment, no where this Court finds any



discussion about violation of policy conditions by the R-1, nonetheless, the insurer in its Written Statement (WS) had admitted the validity of the driving license by pleading inter-alia that the driving license of the rider of the Motor Cycle bearing No.5795 dated 13.11.1987 was valid up to 07.08.2008 covering the date of accident. The insurer had, however, pleaded in its WS that it is not liable to pay the compensation, since the applicant sustained injuries due to his own fault or some other reason and the vehicle was planted, but there is no evidence, much less either documentary or oral evidence led by the insurer to establish such plea. In this situation and circumstance, especially when there is no evidence led by the insurer to establish its plea and the impugned judgment being totally silent as to the violation of policy conditions by R-1, this Court does not consider it proper to confirm such finding of the learned Tribunal about giving right of recovery to the insurer, merely because the impugned judgment states that the right of recovery is granted to the insurer to realize the compensation



from the owner of the offending vehicle and, thereby, such finding of the learned Tribunal being contrary to law, cannot sustain and is accordingly set aside in this appeal.

6. On reverting back to the challenge of the appellant-claimant to the quantum of compensation, it needs to be reminded here, that the present matter was placed in different National Lok Adalats, but in the last National Lok Adalat, the parties in fact have settled the compensation amount with a consolidated sum of Rs.1,50,000/-, but the said settlement could not be processed in the Lok Adalat because of absence of the claimant-appellant as well as his counsel. In this situation, after making a thorough negotiation and discussion with the learned counsel for the parties, this Court proposes to the parties a consolidated sum of Rs.1,50,000/- as negotiated earlier by them without any interest as full and final settlement in the case and seeks the response of the learned counsel for the parties, to which Mr. Bibudhendra Kumar Rath, learned counsel for the claimant-appellant agrees and



accept the proposal, whereas, Mr. Adam Ali Khan, learned counsel for R-2-insurer without disputing such proposal leaves it to the discretion and conscience of this Court.

7. In the aforesaid facts and situation and taking into account the law laid down by Apex court in ***Taslim Parvin & Another vrs. (Smt.) Usha Devi & Another; 2018(2) TAC 22 (SC)***, since the claimant-appellant agrees to the proposal of the Court through his counsel and the counsel for the R2-insurance company without disputing to such proposal leaves it to the discretion of the Court, it is considered that interest of justice would be best served, if the compensation amount is fixed at a consolidated sum of Rs.1,50,000/- (Rupees One Lakh Fifty Thousand) which shall be paid by the insurance company-R-2 to the claimant-appellant.

8. In the result, the appeal is, accordingly, disposed of with direction to R2-cum-Divisional Manager, Bajaj Allianz General Insurance Co. Ltd.,



Bhubaneswar to pay a consolidated sum of Rs.1,50,000/- to the claimant-appellant within eight weeks hence. In case of deposit of the compensation amount, the same shall be disbursed to the appellant-claimant in cash. Needless to say, proper court fee be realized from the appellant.

(G. Satapathy)
Judge

*Orissa High Court, Cuttack,
Dated the 29th day of September, 2026/Subhasmita*

Signature Not Verified

Digitally Signed
Signed by: SUBHASHMITA DAS
Designation: Sr. Stenographer
Reason: Authentication
Location: High Court of Orissa, Cuttack
Date: 29-Sep-2026 17:39:30

