



IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA Nos.329 & 726 of 2024

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

MACA No.329 of 2024

Rohit Kumar Sahoo ... ***Appellant***

Mr. B. Mohanty, Advocate

-versus-

Nihar Ranjan Sahoo and another ... ***Respondents***

Ms. R.B. Pati, Advocate (R-2)

MACA No.726 of 2024

***The Divisional Manager,
Oriental Insurance Co. Ltd.,
Bhubaneswar*** ... ***Appellant***

Ms. R.B. Pati, Advocate

-versus-

Rohit Kumar Sahoo and another ... ***Respondents***

Mr. B. Mohanty, Advocate(R-1)

CORAM:

JUSTICE G. SATAPATHY

DATE OF HEARING : 12.05.2026

DATE OF JUDGMENT: 15.05.2026

G. Satapathy, J.

1. Instant two appeals U/S. 173(1) of the Motor Vehicles Act, 1988 (in short, the "Act") assail the judgment dated 06.11.2023 passed in MAC Case No.172 of 2017 by which the learned Add. District Judge-cum-



III Motor Accident Claim Tribunal, Dhenkanal (in short, "the Tribunal") directed the Divisional Manager, Oriental Insurance Co. Ltd. (in short, "the insurer") to pay Rs.3,39,970/- together with simple interest @ 7% per annum with effect from 26.07.2017 till its realization to one Rohit Kumar Sahoo (in short, "the claimant") towards injuries sustained by him in a Motor Vehicular Accident in an application U/S.166 of the Act.

2. Briefly stated, on 07.04.2017 at about 6.00 PM the claimant while coming on his motorcycle OD-06-A-5681(hereinafter referred to as "offending motorcycle") from Hindol Road to Upper Baghalunda as a pillion rider suffered an accident, when the motorcycle fell into a ditch and he sustained injuries all over the body. According to the claimant, the accident occurred due to rash and negligent riding of the rider of the offending motorcycle and for the injuries, he was treated at various hospitals incurring huge expenditure and he became disabled due to the accident and thereby, unable to support his family out of his avocation of



contractor work. The claimant accordingly, approached the learned Tribunal for grant of compensation of Rs.10,00,000/- for his injuries by impleading the owner and insurer of the offending motorcycle. The claim of the claimant was registered vide MAC Case No.172 of 2017.

2.1. In response to the notice of the aforesaid claim, the owner of the offending motorcycle appeared and filed his written statement stating inter-alia that he is the owner of the motorcycle, which is duly insured with the insurer and he was having valid DL at the time of accident. On the other hand, the insurer appeared and filed its written statement denying its liability for violation of policy condition by inter-alia claiming the compensation as sought for to be excessive. It is the further claim of the insurer that the claim by the claimant is collusive one and the rider of the offending motorcycle was never rash and negligent.

3. On the *interse* pleadings of the parties, the learned tribunal framed as many as four issues and proceeded to examine the witnesses tendered by the



parties. In support of his case, the claimant examined himself as PW.1 and exhibited 13 documents under Ext.1 to 13, besides examining two more witnesses as PWs.2 and 3, whereas the insurer examined only one witness as OPW-1 and exhibited the letter of CDMO, Dhenkanal under Ext.A and one RTI information under Ext.B.

4. After appreciating the evidence on record upon hearing the parties, the learned tribunal passed the impugned judgment granting the compensation to the claimant indicated (supra) with penal interest 9%, if the compensation is not satisfied within the time stipulated by it, but being aggrieved with the quantum of compensation, both the insurer and the claimant have preferred two separate appeals which are disposed of by this judgment.

5. Heard, Mr. Biswajit Mohanty, learned counsel for the claimant and Ms. Rimjhim Bala Pati, learned counsel for the insurer and perused the record, but none appears for the Respondent-cum-owner at the



time of hearing of these appeals despite having entered appearance through one counsel.

6. After having considered the rival submissions upon perusal of record, the only issue that arises for consideration in these two appeals is whether the compensation amount is liable to be enhanced or reduced?. Before delving upon the core issue of quantum of compensation, this Court considers it proper to negate the claim/plea of the insurer that since there is a delay of 13days in lodging the FIR, the judgment passed by the learned tribunal needs to be set aside inasmuch as no law prohibits of lodging of FIR with delay. It is quite obvious in a situation like this, when a person suffered an accident as a pillion rider due to rash and negligent riding of the rider of the motorcycle, he may not approach the police immediately as he must be under the trauma of the accident and might be treated at hospital. Besides, in a situation like this, the family members of the injured must be busy in the treatment and often, therefore, delay may arise in lodging the FIR.



Additionally, the accident cannot be disbelieved mere delay in lodging the FIR, when an independent agency like police while being moved has submitted charge-sheet which is evident from Ext.2. There is also no serious challenge to the finding of the learned trial tribunal that the accident occurred due to rash and negligent riding of the rider of the offending motorcycle and this Court, therefore, concurs the finding of the learned tribunal with regard to accident occurring due to rash and negligent riding of the rider of the offending motorcycle.

7. Reverting to the core issue of the quantum of compensation, it is claimed by the claimant that he has sustained injuries and disability due to the accident, but the injury report of the claimant proved under Ext.3 discloses him to have suffered fracture of Right Tibia Condyle and right wrist, however, there is a serious issue of claimant producing two disability certificate which were exhibited under Ext.7 & 13 with objection by the insurer. What is most important and



surprising is that after the insurer claimed that the disability certificate exhibited under Ext.7 is fake one, the claimant produced another disability certificate under Ext.13. Although the claimant advanced a plea that the disability certificate issued under Ext.7 being not uploaded in the website, the claimant cannot be held responsible, since he had obtained it from the medical board, but such argument appears to be an eye wash inasmuch as the disability certificate issued under Ext.7 shows it to be a case of locomotor disability and the diagnosis is Paraplegia, but Paraplegia is a condition of partial or complete Paralysis of the lower half of the body including both the legs and it usually caused by small spinal cord injury or disease in the Thoracic or Lumbar region and it causes loss of movement, sensation and bowel/bladder control from the waist down and the patient often require a wheel chair. On the other hand, the second disability certificate produced by the claimant exhibited under Ext.13 discloses it to be a case of locomotor disability and the diagnosis is **OA(R)**



KNEE WITH STIFFNESS and he has been described as 50% permanent disabled in relation to his right leg & right arm. It is, therefore, very clear that the claimant has not approached the learned tribunal in clean hands and in order to get a hefty compensation, he has produced Ext.7 which appears to be a non-existent document in view of the letter of the CDMO, Dhenkanal exhibited under Ext.A by the insurer.

8. Additionally, the learned tribunal on analysis of the evidence and materials placed on record considered Ext.7 to be a fake document, but this Court is quite convinced to find the claimant to have practised fraud upon the learned tribunal, since one document shows 60% disability with Paraplegia of the claimant, whereas the other document shows 50% disability of locomotor of right leg and right Arm. Be that as it may, the claimant has been proved to have suffered injuries of fracture of Right Tibia Condyle and right wrist and the second disability certificate produced by the claimant shows about the permanent disability of some part of his



body, but it is to be remembered here that all disability would not result loss of income inasmuch as the disability of a particular part of the body may not be the disability of the whole of the body of a person. It is to be assessed from the evidence on record as to how the disability of a particular part of the body affects the working of the whole body in reference to the avocation of the person and that is why the concept of the functional disability has been conceived in computing the compensation to the person sustaining injury/injuries in an accident. Disability always refers to physical impediment and inability of a person to perform physical function normally, but permanent disability refers to loss of use of some part of the body. The extent of disability of limb or a part of the body expressed in terms of the percentage obviously cannot assume to be the same extent of disability of the whole body and where the claimant suffers a permanent disability as a result of injury, the assessment of compensation to an injured under the head of loss of future earning would depend



upon the affect and impact of such permanent disability on his earning capacity. It is, therefore, very clear that the disability of a part of body may not be the disability of the whole part of the body and the disability of the whole of the body may not be the same extent of functional disability and the extent of functional disability would not be the same extent of loss of earning.

9. In the present case, even if the disability of the claimant as referred in Ext.13 is taken into consideration vis-à-vis his avocation of contractor with his advance age at 54years and there being no evidence tendered by the claimant to establish as to how the claimant could not perform his work with regard to his avocation, this Court is not convinced that the disability as referred in Ext.13 would be the same extent of disability for the claimant for loss of future earnings. In this situation, this Court considers it proper to refer to the decision in ***Aliveli Mallareddy Vrs.Surthani Linganna@Chinna Linganna& Others*** in Civil Appeal No---of2025 (Arising out of SLP(C)No.19636 of 2024)



disposed of on 07.04.2025, wherein the Apex Court in para 10 has held thus:-

"10. Xx xx xx. xx the Almanco Manual would suggest that the disability when not assessed to the whole body, the disability to the lower limb will be 1/5 and upper limb be 1/4 of the disability assessed".

Similarly in ***Uttar Pradesh Road Transport Corporation Vrs. Vibhor Fialok & Another*** in Civil Appeal No(s).1337-1338 of 2019 [Arising out of SLP(C) Nos.2738-2739 of 2019], the Apex Court in Paragraph 13 has held as under: -

"13. Xx xx xx. Thus, this court will have to undertake the exercise of assessing the whole body disability and as per almanco manual, the whole body disability when compared to the particular limb disability would be 1/4th in respect of that of the lower limb. xx xx xx xx".

10. In the aforesaid facts and circumstances and taking into account the manner in which the claimant has tried to mislead the learned Tribunal by producing Ext.7 to grab hefty compensation and taking into account the injuries sustained by the claimant keeping in view the disability of the claimant as



referred in Ext.13 by the medical board, together with the precedent of the Apex Court as indicated above, this Court has no hesitation to conclude that the learned tribunal has rightly taken the functional disability and loss of future earning of the claimant at 10% which does not require any interference. In order to establish the monthly income of the claimant, it is stated in the evidence that the claimant was working as a supervisor in a Stone crusher under one Parameswar Rao and was earning Rs.15,000/- per month, but PW.2 examined for the claimant admitted in cross-examination that he has not seen any salary document of the claimant and he only heard that the claimant was earning Rs.15,000/- per month as his salary, however, the employer being examined as PW.3 has stated in his evidence that after the accident the claimant has become permanent disabled and unable to do his job, but the disability certificate as produced by the claimant under Ext.13, if read with the injuries sustained by the claimant under Ext.3, it can be said with certitude that the claimant



must not have lost his job for the injuries sustained by him. PW.3 has no doubt established the salary of the claimant at Rs.15,000/- per month, but he has admitted that he has not issued any document with regard to appointment letter in favour of the claimant nor has he filed the attendance register, Wage Register, Salary Register before the tribunal. In such circumstances, the learned tribunal has rightly taken the notional income of the claimant at Rs.10,000/- per month.

11. Another aspect of challenge of the claimant in these appeals that the claimant had in fact spent Rs.2,00,000/- towards his treatment, but the learned tribunal has given a paltry amount of Rs.1,07,970/- without any reason. This Court, however, is not convinced with such submission of the claimant, since the tribunal has taken into consideration the documents produced by the appellant towards his treatment and accordingly, granted a sum of Rs.1,07,970/-, however, the certified copy of same documents are produced before this Court, but on



adding the medical bills of the claimant, it comes around Rs.1,27,576/- and, therefore, the error in adding of the medicine bills by the tribunal needs to be modified/corrected. No further issues are in fact raised in these two appeals to challenge the quantum of compensation. Hence, the claimant is entitled to the following amounts towards compensation for sustaining injuries in motor vehicular accident.

Heads	Amount(Rs.)
Rs.1,32,000/- (loss of future earnings of the petitioner @ 10% functional disability); Rs.1,20,000/-(Yearly income of the petitioner)&10% thereof comes to Rs.12,000/-(yearly loss of income) x 11 (multiplier since the age of the petitioner was 54 years) = Rs. 1,32,000/- loss of future earnings.	Rs.1,32,000/-
Actual expenditures incurred towards the Hospital charges, medicines charges and operation charges as per (Ext.10 series)	Rs.1,27,576/-
Conveyance charges i.e. transportation charges in different occasions for moving to the hospitals	Rs.5,000/-
Attendant charges in different times during hospitalization.	Rs.20,000/-
Expenses for Special diet & nutrition.	Rs.20,000/-
For mental and physical shock, pain and suffering already suffered or likely to be suffered in future till the end of his life for the aforesaid fractured injuries.	Rs.50,000/-
Loss of expectation of life	Rs.10,000/-
Future medical expenses	Rs.20,000/-
Cost of litigation	Rs.5,000/-
Total	Rs.3,89,576/-



In addition the appellant is also entitled to simple interest @ 7% per annum w.e.f. from the filing of the claim, but he is not entitled to any penal interest thereon, if the same is not paid within statutory period as ordered by the learned tribunal. Accordingly, the modified compensation amount for the claimant is calculated at **Rs.3,89,576/-** together with simple interest @ 7 % per annum w.e.f 26.07.2017 till its realization.

12. In the result, the appeal by the insurer stands dismissed, whereas the appeal by the claimant stands allowed in part on contest against the insurer, but *ex-parte* against the Owner of the offending motor cycle. ERGO, the impugned judgment is modified to the extent indicated above and the insurer is directed to pay Rs. **Rs.3,89,576/-** together with simple interest @ 7% per annum w.e.f 26.07.2017 till its realization within eight weeks hence to the claimant. On deposit of the aforesaid compensation amount before the learned tribunal, the same shall be disbursed to the claimant proportionately in terms of the impugned judgment and



the statutory deposit together with accrued interest thereon in MACA No.726 of 2024 be refunded back to the Insurer on the production of proof of deposit of modified compensation amount before the learned tribunal.

(G. Satapathy)
Judge

*Orissa High Court, Cuttack,
Dated the 15th day of May, 2026/Jayakrushna*

Signature Not Verified

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