



**IN THE HIGH COURT OF ORISSA AT CUTTACK**

**MACA No.1105 of 2018**

In the matter of an application under Section 173 of the Motor Vehicles Act, 1988.

***The Manager Claims  
(T.P. Cell), M/s. Oriental ... Appellant  
Insurance Co. Ltd.***

*-versus-*

***1.Susanta Kumar  
Pattnaik  
2.Srikanta Mohanty .... Respondents***

**For Appellant : Mr. A.A. Khan, Advocate**

**For Respondents : Mr. S.K. Mohanty, Advocate  
(R-1)**

**CORAM: JUSTICE V. NARASINGH**

**Date of hearing : 20.08.2025**

**Date of Judgment : 01.10.2025**

**V. Narasingh, J.** The present MACA has been preferred by the Insurance Company assailing the award dated 24.07.2018 passed by the learned 7<sup>th</sup> M.A.C.T, Bhubaneswar in M.A.C No.131 of 2015 whereby learned Tribunal directed for payment of compensation of Rs.7,60,000/- along with interest



at the rate of 7% per annum to the Claimant from the date of filing of the claim case till the date of payment.

2. The Claimant has filed a cross objection seeking enhancement of compensation and the prayer in the cross objection is extracted hereunder:-

"It is therefore, prayed that, this Hon'ble Court may be graciously be pleased to admit this cross appeal call for the LCR and after hearing the parties allow this cross-objection appeal by awarding adequate compensation with interest in favour of the Cross-Appellant in the interest of justice.

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xxx"

3. It is the case of the Claimant (Respondent No.1 herein) that on 16.01.2014 at about 9 P.M the injured-claimant, who was working as a Head Constable in RPF, was returning to Talcher Railway Station by riding a motor cycle. A Bullet motor cycle bearing registration number OR-02-BD-4455 came from his back side in a rash and negligent manner and dashed against him as a result of which the injured sustained injuries. After the accident he was shifted to the hospital for treatment. As such claim application was filed claiming compensation of Rs.43,00,000/-.



In response to the notice, the owner of the offending bullet appeared and submitted that his motor cycle was validly insured with the Insurance Company. Hence, he is not liable to pay the compensation. The present Appellant- Insurance Company appeared before the learned Tribunal and resisted the claim.

4. On the pleadings of the parties, the following issues were framed:

- "i. Whether the case filed by the petitioner against the O.Ps is maintainable under law?
- ii. Whether, the O.Ps are liable to pay any compensation to the petitioner?
- iii. Whether, the petitioner is entitled for the compensation amount as prayed for by him in column No.21 of her application/petition?
- iv. To what relief, the petitioner is entitled for as per the law and equity ?"

In order to substantiate his claim, injured Claimant examined himself as P.W.1 and one independent witness as P.W.2. Twenty four documents were marked as Exts.1 to 24.

One witness was examined on behalf of the Insurance Company as O.P.W.1 and no documentary evidence was adduced on its behalf.

On an analysis of the evidence on record, learned Tribunal awarded a compensation of Rs.7,60,000/- with interest at the rate of 7% from



the date of filing of the claim petition i.e. 25.03.2015 till the date of payment.

5. Learned counsel for the Insurance Company Mr. A.A. Khan assailed the award, inter alia, on the ground that the learned Tribunal failed to appreciate that the offending vehicle was planted to claim compensation and as such the delay in institution of the FIR assumes significance in the background of the stand of the Appellant-Insurance Company that the offending vehicle was planted as noted as well as in the light of the evidence of O.P.W.1 that he was not driving the offending vehicle-the Bullet motorcycle.

5-A. It is his further submission that quantification of compensation is very much on the higher side amounting to bonanza and hence the same is liable to be interfered with.

6. Learned counsel for the Respondent-Claimant submitted that the Claimant was working as a Head Constable in the Railway Protection Force at Talcher and due to accident he spent considerable amount for his treatment.

It is further submitted that due to accident on account of disability, he was degraded to B-1 to C-1 resulting in loss of emoluments to the tune of Rs.7,000/- per month. Hence, the compensation



awarded by the learned Tribunal is liable to be enhanced for which the Claimant has filed the cross-objection adverted to hereinabove. In support his submission, he relied on the judgment of the Apex Court in the case of **Raj Kumar vs. Ajay Kumar and Another**<sup>1</sup>.

7. On going through the impugned award, it is seen that the learned Tribunal has taken into account the evidence on record i.e. the deposition of O.P.W.1 as well as the charge sheet-Ext.2 and on analysis of the evidence on record and negated the claim of the Appellant-Insurance Company that the offending vehicle was planted. In this context he also referred to the evidence of P.W.1-the injured Appellant. Learned Tribunal has noted that the Claimant who was promoted to the post of Senior Clerk had suffered 55% permanent disability in relation to spine and right hip. But taking note of the physical ability of the Appellant during the course of trial, discarded the claim regarding functional disability and also loss of income.

8. On a perspicuous analysis of the evidence on record, this Court does not find any infirmity in the appreciation of the evidence regarding false implication of the offending vehicle and the

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<sup>1</sup> (2011) 1 SCC 343



assessment of the evidence regarding delay in institution of the FIR on which much reliance was placed by the learned counsel for the Appellant-Insurance Company.

8-A. On going through the analysis of evidence on record, this Court does not find any merit in the submission of the learned counsel for the Claimant that the learned Tribunal failed to appreciate the contention of the Claimant relating to loss of income on account of reversion from C-1 to D-1 category and his consequential disentitlement of amounts on several heads.

9. Hence, this Court does not find any infirmity in the findings of the learned Tribunal that because of the admission of the injured-Claimant in the hospital, there was a delay in lodging of the FIR by the Inspector RPF, showing involvement of an unknown vehicle is not fatal to the case of the Claimant.

10. It is submitted by the learned counsel for the Appellant-Insurance Company that in the absence of any evidence the amount of Rs.5,00,000/- awarded towards pain and suffering and loss of amenities of life of Rs.2,00,000/- amount to bonanza. Hence the same is liable to be interfered with. But it is on record that the



Claimant- Respondent No.1 was admitted in KIIMS Hospital from 17.01.2014 and discharged on 06.04.2014 and he had sustained fracture of pelvic and injury to urethra.

11. Considering the nature of the injury suffered resulting in disability of 55%, on the touchstone of the doctrine of just compensation, this Court is not persuaded to hold that the award of Rs.5,00,000/- towards pain and suffering can be said to be unreasonable.

But so far as the award of Rs.2,00,000/- towards suffering and loss of amenities of life is concerned, taking into account that the Claimant was aged about 39 years, this Court is of the considered view that reducing the same from Rs.2,00,000/- to Rs.1,50,000/- (Rupees One Lakh Fifty Thousand) would meet the ends of justice.

12. Hence, the compensation amount awarded is modified by reducing the same to Rs.7,10,000/- (Rupees Seven Lakhs Ten Thousand) with interest at the rate of 7% per annum from the date of filing of the claim petition i.e. 25.03.2015 till realization. The modified compensation amount shall be payable within a period of eight weeks from this day failing which it shall carry penal interest at the



rate of 9% from the date of application till payment.

13. Within six weeks of production of proof regarding deposit of the modified amount before the Tribunal, statutory deposit along with accrued interest shall be refunded to the Insurance Company on proper application.

14. The MACA and Cross-Objection are disposed of. No costs.

**(V. NARASINGH)**  
**Judge**

*Orissa High Court, Cuttack*  
*Dated the 1<sup>st</sup> October, 2025/Ayesha*