

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

**W.P.(C) No.40400 of 2021**

(In the matter of an application under Articles 226 and 227 of the Constitution of India, 1950)

*Renu Keshari* .... *Petitioner(s)*

*-versus-*

*Divisional Manager, M/s United* .... *Opposite Party (s)*  
*Indian Insurance Co. Ltd., Cuttack*

Advocates appeared in this case through Hybrid Arrangement Mode:

For Petitioner(s) : *Mr. Mithun Das, Adv.*  
*along with*  
*Mr. P.S. Das, Adv.*

For Opposite Party(s) : *Mr. R.C. Sahoo-1, Adv.*

**CORAM:**  
**DR. JUSTICE S.K. PANIGRAHI**

**DATE OF HEARING:-19.10.2023**

**DATE OF JUDGMENT: -10.11.2023**

**Dr. S.K. Panigrahi, J.**

1. The Petitioner through this Writ Petition, challenges the letter dated 12.10.2021, issued by the Opp. Party, thereby rejecting the representation of the Petitioner for settling the claim of damage and personal accident claim of her husband under Policy No. 2603003118P1155220799.

**I. FACTUAL MATRIX OF THE CASE:**

2. The petitioner's husband died in an ill-fated road accident on 21.04.2019, while he was proceeding towards Cantonment Road, Cuttack, along with his two daughters on his Suzuki Access Scooter bearing Regn. No.OD-33R-7797 duly insured before the Opp. Party/Company. It is also pertinent to mention here that the minor daughters of the Petitioner also sustained severe injuries in that accident.
3. In this regard, a Police Case has been registered in Cantonment Police Station vide Cantonment P.S. Case No.56, dated 21.04.2019 as against the Driver of the offending Vehicle for the offence punishable under sections 279/304(A)/337/338 of the I.P.C. After recovery from the pain, the Petitioner claimed for compensation before the Opp. Party for own damage along with personal accident of her deceased husband by following due procedure on 16.08.2019. The same has been registered as own damage claim No. 2603003119C050059001 and personal accident claim No.2603003:19C050089001.
4. The Claim of the Petitioner has been repudiated by the Opp Party due to the reason, "*The insured owner-cum-driver late Mrutunjaya Prasad Keshari was not having a valid and effective Driving license at the material time of accident (Dt.21.01.2019)*". The DL (OR0519900288438) of late Mrutunjaya Prasad Keshari was valid up to Dt.02.04.2019".

The same is intimated to the Petitioner vide Letter No.704, dated 25.11.2019.

5. The Petitioner clarified the above ambiguity by her Letter, dated 24.12.2019 to the Opp. Party. However, when the Opp. Party did not consider the same, the Petitioner on 10.09.2020 shot a Legal Notice to the Opp. Party by clarifying the ambiguity by mentioning that husband of the Petitioner was possessing or valid DL, the same was valid up to 02.04.2019 and the accident/incident took place on 21.04.2019 after expiry of 19 days. It is intimated to the Opp. Party that if the DL Holder will be alive, he shall renew the same for the next term within the time stipulation, which is not barred at all as per law, i.e. Section 14(B)(II), Proviso, which is extracted herein below:

*"Provided that every driving license shall not withstanding its expiry under this Sub-Section continue to be effective for a period of thirty days from such expiry."*

6. Therefore, under such particular facts and circumstances of the statutory provision of law, it is crystal clear that the deceased husband of the Petitioner has valid and effective driving license at the time of said accident.
7. When the Opp. Party did not pay heed towards the Legal Notice, as at Annexure-4, the Petitioner approached this Court by filing a Writ Petition bearing W.P.(C) No.27880 of 2021, for a direction to the Opp. Party to settle the claim of the petitioner and disburse the

compensation amount in regard to personal accident claim of her husband under Police as mentioned supra. On 16.09.2021, the above mentioned Writ Petition was listed before this Court and after perusing the Writ Petition, this Court was pleased to dispose of the same vide Order, dated 16.09.2021 as extracted herein below:

*“4. Regard being had to the facts and submissions and the nature of relief sought for, the writ petition is disposed of directing the Opposite Party to dispose of the aforesaid representation of the petitioner vide Annexure-4 in accordance with the Policy of the company within a period of three months from the date of receipt of the certified copy of the certified copy of this order.*

*5. Till disposal of the representation, no coercive action shall be taken against the petitioner.*

*6. The petitioner is directed to supply the copy of the writ petition containing all the annexures along with certified copy of this order to Opposite Party for convenience and reference to Annexure-4.”*

8. After receiving the certified copy of the Order, passed in the above mentioned Writ Petition, the Petitioner communicated the same to the Opp. Party on 22.09.2021 and after receipt of the same, the Opp. Party vide its Letter No.737, dated 12.10.2021 communicated the Petitioner that her representation under Annexure-4 is rejected on the ground that validity of the Driving License of her husband, was expired on 02.04.2019 and the date of accident was on 21.04.2019. Thus, the Opp. Party is unable to accept the interpretation of proviso to Sub-Section (2)(B)(ii) of Section-14 of the M.V. Act.

9. Learned counsel for the petitioner submits that the Opp. Party did not comply with the order dated 16.09.2021 passed in W.P.(C) No.27880 of 2021 in letter and spirit. It is a fact that the Petitioner's husband died in a road traffic accident and the Petitioner initially claimed vide her Letter, dated 16.08.2019 and the Opp.Party vide letter dated 25.10.2019 repudiated the claim of the Petitioner on the ground of invalidity and ineffectiveness of her husband's Driving License. Thereafter, vide Annexure-4 again the Petitioner through her Legal Counsel, approached the Opp.Party by mentioning the provision U/s.14 (2)(B)(ii) of M.V. Act. But, again the Opp.Party rejected the same on a wrong interpretation of above proviso, where the grace period is 30 days after expiry of Driving License and the deceased may apply for renewal, before expiry of 30 days. But, due to ill-fate, the deceased met with a road accident on 21.04.2019, i.e. prior to 10 days to expire the grace period as mentioned in the aforesaid proviso. On the above premises, the Petitioner craves the indulgence of this Court for a direction in the manner as prayed for.

## II. SUBMISSIONS OF OPPOSITE PARTY:

10. Per *contra*, learned counsel for the Opp. Party intently made the following submissions:
- (a) As alternative remedy is available to the Petitioner under common law and special statute, the writ petition in the context of present case is not maintainable and in order to avoid the severity of law and judicial procedure, this writ petition has been filed by abusing the

process of law. The Petitioner having approached this Court with unclean hands, she does not deserve to invoke the extraordinary jurisdiction of this Court.

- (b) Though the Police registered Cantonment P.S. Case No.56/2019 under Sections 279/304(A)/337/338 of the I.P.C. but after investigation submitted charge-sheet under Sections 279/338/304/109 I.P.C. against Sampada Parida, the erring Driver and Niranjana Lenka, the owner of the offending vehicle for abetting the offence and arrested them and forwarded to the Court. Since the death caused due to culpable homicide is not covered under the Policy, the Petitioner is not entitled to any compensation as prayed for.
- (c) It is false to allege that the Opp. Party did not consider the letter dated 24.12.2019 of the Petitioner. As a matter of fact, on receiving the said letter dated 24.12.2019, the Opp. Party under letter dated 14.01.2020 reiterated their stand taken in the letter of repudiation dated 25.11.2019, vide Annexure-3 and turned down the request of the Petitioner to review her claims, with due intimation to the Petitioner. But by suppressing this fact, the Petitioner had filed W.P.(C) No.27880 of 2021 and has repeated the same mistake in the present Writ Petition, also.
- (d) Be that as it may, as the proviso to Section 14 (2) (B) (ii) of the Motor-Vehicles Act, 1988 (hereinafter referred to as "the Act") was misinterpreted in the legal notice dated 10.09.2020, the Opp. Party did not consider it prudent to reply the same, since repeated

representations are forbidden under law and does not improve the case of the Petitioner. However, in response to the order dated 16.09.2021 of this Hon'ble Court in W.P. (C) No.27880 of 2021, the Opp. Party disposed of the representation of the Petitioner made under Annexure-4 of the said Writ Petition in terms of Annexure-5 of the present Writ Petition.

- (e) The Opp. Party was directed to dispose of the representation of the Petitioner in accordance with the Policy of the Company. Under the Policy, a person holding an effective driving license at the time of accident is entitled to drive the vehicle insured. But in the present case, the deceased was not holding an effective driving license at the time of accident inasmuch as the same was expired on 02.04.2019, whereas the accident was taken place on 21.04.2019, i.e. 19 days after the date of expiry of his driving license. The Annexure-5 will speak for itself that the representation of the Petitioner has been disposed of in true letter and spirit of the order dated 16.09.2021 of this Hon'ble Court.
- (f) While disagreeing with the interpretation of proviso to sub-Section (2) sub-clause (ii) of Section 14 of the Act as made by the Petitioner under her representation dated 10.09.2020, the Opp. Party has categorically stated that in order to take advantage of such deeming provision, the license holder has to apply for renewal of his driving license before happening of any incident giving rise to a claim under

the Policy, otherwise the Company is at liberty to disown its liability for want of validity and effectiveness of the driving license.

- (g) The contention of the Petitioner that the deceased- insured would have applied for renewal of his driving license after the date of accident, had he been alive, is of no consequence inasmuch as it is a contingent proposition and if such proposition is accepted, then the present claim would not have arisen and the Opp. Party would not have drag on to the litigation. Moreover, such proposition is against the true spirit of contract of insurance drawn up between the insured and the insurer and the relevant provision governing the law of renewal of a driving license.
- (h) The Opp. Party being a public sector Company and being the custodian of public money have taken a bonafide decision on the claim made by the Petitioner and having found that the deceased- insured had no effective driving license at the time of accident, the Opp. Party was constrained to repudiate the claim of the Petitioner with due intimation to her. So, the Petitioner is not entitled to the any relief as claimed for.

### **III. COURT'S REASONING AND ANALYSIS:**

11. It has been further asserted that as the law concerning renewal of driving license does not mandate that if, the application for renewal is made beyond the grace period of thirty days, the driving license would be renewed from the last date of such grace period, it is totally misconceived to allege that the driving license of the deceased



was valid for a period of thirty days of its expiry. Therefore, the Opp. Party has not only disposed of the representation of the Petitioner in terms of order dated 16.09.2021 of the Hon'ble Court but also in consonance with the provisions of law governing the renewal of driving license as envisages under Section 15 of the Act.

12. In fact, Section 15 (1) of the Act deals with the renewal of the driving license. According to the said provision, when an application for renewal of driving license is made, the Licensing Authority may renew the same with effect from the date of its expiry. The 1st proviso to such provision further provides that, if the application for renewal is made beyond thirty days after the date of its expiry, the license shall be renewed with effect from the date of its renewal. In other words, if the application for renewal is made within a period of thirty days of its expiry, it would be deemed to be valid for a period of thirty days, irrespective of its date of renewal. However, such application is made beyond thirty days of such expiry, the license shall be treated as valid from the date of its renewal and during the period between the date of expiry and the date of renewal, the license shall be considered to be non-effective and invalid.
13. Therefore, in order to take advantage of proviso to sub-Section (2) sub-clause (ii) of Section 14 the holder of the license has to apply for renewal of his license within a period of thirty days of its expiry. Since the provision governing the renewal of driving license does

not provide that if, the application for renewal is made after expiry of grace period of thirty days, the driving license shall be renewed from the last day of such grace period of thirty days. The theory advanced by the Petitioner that her husband's driving license was valid and effective for a period of thirty days of its expiry is totally misconceived as the same is against the true spirit of first proviso to Section 15 (1) of the Act.

14. Had the deceased applied for renewal of his driving license after the date of its expiry but prior to the date of accident in question, his driving license would have been deemed to be valid at the time of accident in terms of sub-section (2) sub-clause (ii) of Section 14 of the Act, even if the same was not renewed by the time of accident. As no application for renewal was made prior to date of accident, advantage of said provision is not available to the Petitioner.
15. In *Ram Babu Tiwari v. United India Insurance Co. Ltd.*<sup>1</sup>, the Supreme Court held:

*“18. It is beyond any doubt or dispute that only in the event an application for renewal of licence is filed within a period of 30 days from the date of expiry thereof, the same would be renewed automatically which means that even if an accident had taken place within the aforementioned period, the driver may be held to be possessing a valid licence. The proviso appended to sub-section (1) of Section 15, however, clearly states that the driving licence shall be renewed with effect from the date of its renewal in the event the application for renewal of a licence is made more*

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<sup>1</sup> 2008(8) SCC 165

*than 30 days after the date of its expiry. It is, therefore, evident that as, on renewal of the licence on such terms, the driver of the vehicle cannot be said to be holding a valid licence, the insurer would not be liable to indemnify the insured."*

16. In the present case the driving license of the deceased, who is none other than the insured himself was expired on 02.04.2019, whereas the accident took place on 21.04.2019 and by that time no application for renewal of his license was made. So, in utter disregard of the terms and conditions of the Policy the deceased-insured was driving the vehicle insured at his own risk and as the insurer of his life. Since the deceased-insured has violated the terms and conditions of the Policy, the Petitioner is precluded from deriving any benefit that flows from the Policy and cannot take advantage of the wrong committed by her deceased husband, particularly when the claim does not relate to a third party but relate to the insured himself.
17. With respect to the aforesaid discussion, this Court is not inclined to entertain the prayer of the Petitioner. This Writ Petition is, accordingly, dismissed. No order as to costs.

**(Dr. S.K. Panigrahi)**  
**Judge**