# IN THE HIGH COURT OF ORISSA AT CUTTACK

## MACA No.7 of 2019

***The Manager, New India Assurance Company Ltd.*** .... ***Appellant***

Mr. Subrat Satpathy with Ms. B. Khadenga, Advocate

*-versus-*

***Bijuli Das and Others*** .... ***Respondents***

Mr. P.K. Mishra, counsel for Respondents 1-3

**CORAM:**
**SHRI JUSTICE B. P. ROUTRAY**

**ORDER**
**12.5.2022**

**Order No.**

06. 1. Heard Mr. S. Satpathy along with Ms. B. Khadenga, learned counsel for the insurer - Appellant and Mr. P.K. Mishra, learned counsel for claimant – Respondents 1-3.

2. The delay in filing the appeal is condoned.

3. Present appeal by the insurer has been filed challenging the judgment dated 21st August, 2018 of learned 1st MACT, Dhenkanal passed in MAC No.160 of 2015 wherein compensation to the tune of Rs.5,10,000/- along with interest @ 7% per annum from the date of filing of the claim application, i.e. 10th July, 2015 has been granted on account of death of the deceased in the motor vehicular accident dated 20th January, 2015.

4. The sole contention of the Appellant is to the effect that the offending vehicle in question has been implanted despite the fact that another vehicle was involved in the accident as per the F.I.R.

5. After hearing Mr. Mishra, learned counsel for the claimant – Respondents and considering the evidence adduced through P.Ws.1 & 2 (the eye witnesses to the accident) as well as the police report submitted upon completion of investigation, no merit is seen in the contention of the Appellant to disbelieve involvement of the offending vehicle in question. It is to be noted here that the owner has admitted about the involvement of the offending vehicle in question in the accident and interestingly he is the owner of both the vehicles shown in the F.I.R. as well as the present offending vehicle.

6. Further, no evidence is adduced either to support the contention of the insurer or in rebuttal of such evidence adduced by the claimants. As such in the circumstances, the contention raised by the insurer to exclude involvement of the present offending vehicle is rejected.

7. Next coming to the question of quantum of compensation, upon hearing both parties and considering the grounds advanced in respect of the same, no reason is found to interfere with the amount granted by the learned tribunal who has computed the same in terms of the principles decided in the case of ***National Insurance Co. Ltd. v. Pranay Sethi and Others, (2017) 16 SCC 680***. However the rate of interest is reduced to 6% from 7%.

8. In the result the appeal is disposed of with a direction to the insurer – Appellant to deposit the entire compensation amount of Rs.5,10,000/- (five lakh ten thousand) before the tribunal along with interest @ 6% per annum from the date of filing of the claim application, i.e. 10th July, 2015 within a period of two months from today; where-after the same shall be disbursed in favour of the claimants on the same terms and proportion as contained in the impugned judgment.

9. The statutory deposit made by the Appellant before this court along with accrued interest and the cheque bearing No.108828 dated 5th May, 2022 be refunded to the Appellant on proper application and on production of proof of deposit of the awarded amount before the tribunal.

10. An urgent certified copy of this order be issued as per rules.



***( B.P. Routray)***
***Judge***

M.K.Panda