IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA No.802 of 2014

Oriental Insurance Company Ltd.
through its Manager .... ***Appellant***

Ms. Prativa Mishra, Advocate

-versus-

Parbati Sahu and Others .... ***Respondents***

Mr. S.B. Das, counsel for Respondents 1-3

CORAM:
SHRI JUSTICE B. P. ROUTRAY

ORDER
23.8.2022

Order No.

19. 1. The matter is taken up through hybrid mode.

2. Heard Ms. P. Mishra, learned counsel for the insurer – Appellant and Mr. S.B. Das, learned counsel for claimant – Respondent Nos.1 to 3.

3. Present appeal by the insurer is against the impugned judgment dated 25th April, 2014 of the learned District Judge-cum-MACT, Bargarh passed in MAC Case No.25 of 2010 wherein compensation to the tune of Rs.1,82,500/- along with interest @ 6% per annum from the date of filing of the claim application, i.e. 19th February, 2010 has been granted on account of death of the deceased Bhagirathi Sahu in the motor vehicular accident dated 6th November, 2009.

4. It is submitted by Ms. Mishra on behalf of the Appellant that the offending vehicle did not have a valid permit on the date of accident and its driver was not having a valid licence to drive the same. It is submitted that the driving licence of the driver was not

renewed for the period from 6th November, 2006 to 2nd September, 2013 and therefore, the insurer is not liable to indemnify the compensation amount.

5. Having perused the impugned judgment it reveals that the tribunal has categorically observed upon verification of Ext.C/1, the copy of the driving licence of the driver filed by the insurer (Opposite Party No.2 before the tribunal) and the smart card of the DL filed on behalf of the owner (Opposite Party No.1 before the tribunal) that, the driving licence was valid for non-transport vehicle till 30th December, 2006 and for transport vehicle till 2nd September, 2016. The tribunal has thus concluded that the driver had the valid driving licence on the date of accident i.e. 6th November, 2009, against the contention raised by the insurer that the driver was not having a valid driving licence on the date of accident. Despite such finding of the tribunal no document or material is produced in the appeal to opine otherwise against such specific finding of the tribunal based on Ext.C/1. Similarly, the other contention that the vehicle was not having a valid permit on the date of accident is also not found supported with any material document brought on record. As such both the contentions raised by the insurer are rejected.

6. Next coming to the quantum of compensation it is submitted that the tribunal though has accepted notional income of the deceased at Rs.15,000/- per annum, but still has added future prospects to the same, which according to the Appellant is not permissible.

7. I do not find any merit in the contention of the Appellant not to add future prospects to the notional income. The law has been well

settled on this point in the case of ***Kirti and Another v. Oriental Insurance Company Ltd., (2021) 2 SCC 166.***

8. Upon perusal of the impugned judgment, the computation of compensation amount appears reasonable and does not warrant any interference by this court.

9. In the result, the appeal is dismissed and the Appellant – insurer is directed to deposit the entire compensation amount along with interest before the tribunal within a period of two months from today; where-after the same shall be disbursed in favour of the claimant – Respondents as per the direction contained in the impugned judgment.

10. The statutory deposit made by the appellant before this court along with accrued interest be refunded to the Appellant - insurer on proper application and on production of proof of deposit of the awarded amount before the tribunal.

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

(B.P. Routray)
Judge

M.K.Panda