

IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA No.393 of 2003

Sanjubala Sandha & Ors. Appellants

-versus-

Subash Chandra Kantha & Anr. Respondents

**CORAM:
JUSTICE BIRAJA PRASANNA SATAPATHY**

**ORDER
08.07.2022**

Order No

- 13.** 1. This matter is taken up through Hybrid Arrangement (Virtual/Physical) Mode.
2. Heard Mr. Biswajit Mohanty, learned counsel appearing for the Appellants and Mr. N.B. Das, learned counsel appearing on behalf of Respondent-Company.
3. This appeal has been filed by the Appellant-Claimant seeking enhancement of the compensation passed by the learned 2nd MACT, Cuttack in Misc. Case No. 1062 of 1998 vide order dtd.31.03.2001.
4. Mr. Mohanty, learned counsel for the Appellants submitted that the deceased was a heavy vehicle driver and in support of his income, Ext. 4 was filed and exhibited. But learned Tribunal without considering the said salary certificate, illegally held the monthly income of the deceased at Rs.2,000/- (Rs. Two thousand) and accordingly awarded compensation amount of Rs.2,54,600/-

(Rs. Two lakh fifty four thousand six hundred) along with interest @ 9% per annum from the date of filing till its realization.

5. Mr. Mohanty submitted that the prescribed minimum wages of a highly skilled labourer during the relevant time was Rs.100/- (Rs. One hundred) per day and if that amount would have been taken then the monthly income of the deceased would have been assessed at Rs.3,000/- (Rs. Three thousand). But learned Tribunal without considering Ext. 4 and the minimum wages prescribed for a highly skilled labourer held the same at Rs.2,000/- (Rs. Two thousand) per month. Mr. Mohanty further submitted that while assessing the compensation no award towards the future prospect has been made and it should have been calculated at 40%. Accordingly, Mr. Mohanty prayed for enhancement of the compensation amount suitably.

6. Mr. Das, learned counsel for the Respondent-Company on the other hand submitted that minimum wages prescribed during the relevant time in respect of highly skilled labourer was Rs.48/- (Rs. Forty eight) per day and if that amount will be taken into consideration the monthly income will be Rs.1,440/- (Rs. One thousand four hundred forty). But Mr. Das fairly submitted that no compensation has been awarded towards future prospect.

7. Heard learned counsel for the Parties at length. Perused the materials available on record. This Court after going through the same when came to a conclusion that the Claimant-Appellants will be entitled to get further compensation amount of Rs.1,30,000/- (One lakh thirty thousand) consolidated, Mr. Mohanty, learned counsel appearing for the Appellant supported the said view of this

Court. Mr. Das, learned counsel appearing for the Respondent-Company left the said view to the discretion of this Court.

8. Since it is submitted that the entire award amount pursuant to the order passed by learned Tribunal has already been satisfied, this Court directs the Respondent-Company to pay further compensation amount of Rs.1,30,000/- (Rs. One lakh thirty thousand) consolidated in favour of the Appellants within a period of eight (8) weeks from the date of receipt of this order. This Court accordingly directs the Respondent-Company to deposit the aforesaid compensation amount of Rs.1,30,000/- (Rs. One lakh thirty thousand) consolidated before learned Tribunal within the time stipulated hereinabove.

9. It is directed that on such deposit of the amount within the time indicated hereinabove, learned Tribunal shall disburse the same in favour of the Claimants proportionately in terms of its order dt.31.03.2001. It is however observed that if the Appellant-Company will fail to deposit the aforesaid consolidated amount of Rs.1,30,000/- (Rs. One lakh thirty thousand) within the time indicated hereinabove, then the compensation amount of Rs.1,30,000/- (Rs. One lakh thirty thousand) will carry interest @ 6% per annum for the period starting from the expiry of the period of 8(eight) weeks till its payment.

10. The appeal is disposed of in terms of the aforesaid observation and direction.

(Biraja Prasanna Satapathy)
Judge