

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

**MACA No.11 of 2021**

***National Insurance Company Ltd.***  
***represented through its Manager & Officer-in-Charge*** ..... ***Appellant***

Ms. Nibedita Mohanty, Advocate

*-versus-*

***Jasoda Palei and Others*** ..... ***Respondents***

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

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

**ORDER**  
**23.8.2022**

**Order No.**

05. 1. The matter is taken up through hybrid mode.
2. Heard Ms. N. Mohanty, learned counsel for the insurer – Appellant and Mr. P.K. Mishra, learned counsel for claimant – Respondent Nos.1 and 3.
3. It is submitted that claimant – Respondent No.2, namely Hemabati Palei died in the meantime on 20<sup>th</sup> February, 2021 during pendency of the appeal. A memo has been filed stating that since other LRs of the deceased are already on record no further substitution is required.
4. Present appeal by the insurer is against the impugned judgment dated 27<sup>th</sup> November, 2019 of the learned 3<sup>rd</sup> MACT, Jagatsinghpur passed in MAC Case No.404 of 2015 wherein compensation to the tune of Rs.32,25,833/- along with interest @ 7% per annum from the date of filing of the claim application, i.e. 20<sup>th</sup> November, 2015 has

been granted on account of death of the deceased Pramod Kumar Palei in the motor vehicular accident dated 24<sup>th</sup> September, 2015.

5. It is submitted by Ms. Mohanty, learned counsel for the Appellant that the tribunal has erroneously added Rs.40,000/- towards conventional heads instead of Rs.30,000/-. Further the amount of family pension received by the claimant – wife was not deducted by the tribunal while computing the loss of dependency.

6. Such submission to deduct the family pension is not found acceptable in view of the law settled in various decisions of the Hon'ble Supreme Court. [ See Reliance General Insurance Company Limited v. Shashi Sharma and Others, (2016) 9 SCC 627; Vimal Kanwar v. Kishore Dan, (2013) 7 SCC 476 ] Perusal of the impugned judgment does not reveal any such flaw except to the extent of addition of Rs.40,000/- towards general damages instead of Rs.30,000/-. Nevertheless, it is seen that no amount towards parental consortium has been granted to the minor daughter of the deceased. In such circumstances since no appeal has been preferred from the side of the claimants, this court refrains from giving any opinion on addition of the same.

7. Upon going through the impugned judgment and after hearing both parties, I do not see any merit in the appeal to interfere with except to reduce the rate of interest to 6% from 7%, as agreed by the parties.

8. In the result, the appeal is disposed of with a direction to the Appellant – insurer to deposit the entire compensation amount of Rs.32,25,833/- (thirty-two lakhs twenty-five thousand eight hundred

thirty-three) before the tribunal along with interest @ 6% per annum from the date of filing of the claim application, i.e. 20<sup>th</sup> November, 2015 within a period of two months from today; where-after the same shall be disbursed in favour of the claimant – Respondent Nos.1 and 3, namely Jasoda Palei and Kumari Preeti Palei on such terms and proportion to be decided by the learned Tribunal.

9. 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.

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

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

M.K.Panda

