IN THE HIGH COURT OF ORISSA AT CUTTACK
MACA No.1199 of 2014

Legal Manager, ICICI Lombard General Insurance Co. Ltd. .... ***Appellant***

Mr. S.K. Das on behalf of Mr. J. Mishra, Advocate

-versus-

Prithvinath Singh and Others .... ***Respondents***

Mr. S. Udgata, counsel for Respondents 1-3

CORAM:
SHRI JUSTICE B. P. ROUTRAY

ORDER
1.12.2022

Order No.

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

2. Heard Mr. S.K. Das on behalf of Mr. J. Mishra, learned counsel for the insurer –Appellant and Mr. S. Udgata, learned counsel for claimant – Respondents.

3. Present appeal by the insurer is against the impugned judgment dated 20th August, 2014 of the learned District Judge-cum-MACT, Jharsuguda passed in MAC Case No.28 of 2012, wherein compensation to the tune of Rs.4,10,000/- along with interest @ 6% per annum from the date of filing of the claim application, i.e. 23rd July, 2012 has been granted on account of death of deceased Ranjeet Kumar Singh in the motor vehicular accident dated 28th August, 2011.

4. Mr. Das submits on behalf of the Appellant that the involvement of the offending vehicle, i.e. motor cycle bearing registration number OR 23E 6333 is doubtful and hence the insurer is

not liable to indemnify the owner. In support of his submission, it is stated that the F.I.R. was lodged after 213 days of the alleged accident and therefore, the narration of accident as per the claimants is doubtful in view of such delay in reporting the matter to police.

5. It is seen that the accident took place on 28th August, 2011 while the deceased was standing on roadside. He was immediately shifted to District Headquarters Hospital, Jharsuguda and then to Burla VSS Medical College and Hospital and again to Ayush Hospital, Bhubaneswar on 4th September, 2011. While undergoing treatment at Ayush Hospital, Bhubaneswar, the deceased died on 8th September, 2011. Upon his death, UD F.I.R. No.58 dated 8th September, 2011 was registered in Saheed Nagar Police Station. The police held inquest over the dead body and sent it for post mortem examination. The UD F.I.R., the inquest report, the dead body challan and the post mortem examination report have been marked in Ext.5, Ext.4, Ext.3 and Ext.8 respectively.

6. The insurer did not adduce any evidence and did not dispute these documents prepared in Saheed Nagar UD PS Case No.58 of 2011. Therefore no merit is seen in the contention of the insurer to dispute the accident, involvement of the offending vehicle and the negligence on the part of the driver of the offending vehicle. As such, their contention is rejected.

7. There being no further dispute raised with regard to quantification of the amount of compensation, which is found just and reasonable, no interference is required in the impugned judgment.

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

9. The statutory deposit made by the insurer - Appellant before this court along with accrued interest 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