

IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA NO.176 OF 2009

From the Judgment/Order dated 04.10.2008 passed by the learned 1st M.A.C.T, Keonjhar in MAC Case No.180 of 2006.

Gulachi Munda & Ors.

:::

Appellants

-:: VERSUS ::-

Brahma Kaur & Anr. :::

Respondents

Appeared in this case by Video Conferencing Mode /

Hybrid Mode.

For Appellant

::: Mr. P.K. Samantaray,
Advocate

For Respondents

::: Mr. B.B. Mishra, Advocate
(for Respondent No. 2)

PRESENT :

THE HON'BLE MR. JUSTICE B.P.SATAPATHY

Date of Hearing- 05.05.2022:: Date of Order- 11.05.2022

B.P.Satapathy, J. This matter is taken up through Hybrid Mode.

2. Heard Mr. P.K. Samantaray, learned counsel appearing for the Appellants and Mr. B.B. Mishra, learned counsel

appearing for the Respondent No.2-Company. In spite of appearance of Respondent No.1, nobody appeared when the matter was taken up.

3. This appeal has been filed by the Appellants-Claimants seeking enhancement of the compensation so passed by the learned 1st MACT, Keonjhar vide Judgment dtd.04.10.2008 in MAC Case No.180 of 2006.

4. It is submitted that vide the said judgment learned Tribunal without proper appreciation of the claim made by the Claimants and without applying judicial mind to the facts of the case only directed for payment of compensation amount of Rs.1,63,000/- (Rupees one lakh sixty three thousand) along with interest @ 9% per annum from the date of application till its payment.

5. It is submitted that due to the death of the deceased Maheswar @ Banamali Munda, the Appellants in their capacity as wife and children of the said deceased made an application under Section 166 of the Motor Vehicle Act claiming compensation of Rs.5,00,000/- (Rupees five lakhs).

6. It is further submitted that in support of the claim, the Claimants-Appellants exhibited various documents vide Ext.1 to Ext.12. Though learned Tribunal did not dispute with regard to the accident which took place on 09.06.2006 and involvement of the offending vehicle insured with the Respondent No.2-Company, but on the face of the claim of Rs.5,00,000/- (Rupees five lakhs), only

compensation amount of Rs.1,63,000/- (Rupees one lakh sixty three thousand) was allowed along with interest @ 9% per annum.

7. It is submittd that since the case in hand is a case of death and the appellants are the wife and children of the deceased, learned Tribunal should not have allowed compensation only to the tune of Rs.1,63,000/- (Rupees one lakh sixty three thousand). Accordingly, it is submitted that the compensation amount be suitably enhanced as deem fit and proper by this Court.

8. Mr. Mishra, learned counsel appearing for the Respondent No.2 on the other hand submitted that learned Tribunal after due appreciation of the materials available on records rightly directed for payment of cpmensation of Rs.1,63,000/- (Rupees one lakh sixty three thousand) along with interest @ 9% per annum.

9. It is also submitted that the said compensation amount along with interest has also been disbursed in favour of the Claimants-Appellants in the meantime. Accordingly, it is submitted that no interference is called for by this Court with regard to the claim made by the Claimants-Appellants in the present appeal.

10. Heard learned counsel for the Parties at length. Perused the materials available on record. There is no dispute that the claim application was filed due to death of one Maheswar @ Banamali Munda, the husband of Appellant No.1 and father of Appellant Nos.2 to 6. There is

also no dispute that the offending vehicle was duly insured with the Respondent No.2-Company and the deceased being an unskilled person, his income was taken as per the prevailing minimum wages. But the learned Tribunal while calculating the monthly income, has excluded the four Sundays and accordingly held the monthly income at Rs.1,300/-(One thousand three hundred) in place of Rs.1,500/-(One thousand five hundred).

11. In view of such illegality committed by the learned Tribunal in holding the monthly income at Rs.1,300/-(One thousand three hundred) in place of Rs.1,500/-(One thousand five hundred) and no amount having been awarded towards future prospect as well as consortium, this Court when came to a conclusion to enhance the compensation amount by another Rs.1,50,000/- (One lakh fifty thousand) consolidated. Mr. Samantaray, learned counsel appearing for the Claimants-Respondents supported the said view of this Court. Mr. Mishra, learned counsel appearing for the Respondent No.2-Company left the said view to the discretion of this Court.

12. In view of the such stand taken by the respective counsels appearing for the Appellants and Respondent No.2-Company, this Court while interfering with the impugned judgment held that the Appellants are entitled to get further compensation amount of Rs.1,50,000/- (One lakh fifty thousand) consolidated. Accordingly, this Court directs the Respondent No.2 to disburse the further compensation amount of Rs.1,50,000/- (One lakh fifty

thousand) consolidated in favour of the Appellants within a period of 8(eight) weeks from the date of receipt of this order.

13. It is, however, observed that if the Respondent No.2-Company fails to disburse the amount so directed hereinabove within the time stipulated by this Court, the consolidated compensation amount of Rs.1,50,000/- (One lakh fifty thousand) will carry interest @ 7% per annum from the date of expiry of the period of 8(eight) weeks till the same is paid.

14. With the aforesaid observation and direction, the MACA is disposed of.

(Biraja Prasanna Satapathy)
Judge

Orissa High Court, Cuttack
The 11th May, 2022/Sneha