IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA No.24 of 2019

Divisional Manager, M/s. National Insurance Company Ltd. .... ***Appellant***

Mr. N.N. Mohapatra, Advocate

-versus-

Brundabati Tudu @ Majhi and Others .... ***Respondents***

Mr. B. Singh, Counsel for Respondent Nos.1-4

CORAM:
SHRI JUSTICE B. P. ROUTRAY

ORDER
8.9.2022

Order No.

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

2. Heard Mr. N.N. Mohapatra, learned counsel for the insurer-Appellant and Mr. B. Singh, learned counsel for claimant – Respondents 1-4.

3. Present appeal by the insurer is against the impugned judgment dated 26th July, 2018 of the learned 6th MACT, Karanjia passed in MAC No.258 of 2011 wherein compensation to the tune of Rs.6,55,000/- along with interest @ 7% per annum from the date of filing of the claim application, i.e. 28th December, 2011 has been granted on account of death of deceased Rama Chandra Mohanta in the motor vehicular accident dated 3rd August, 2011.

4. Mr. Mohapatra submits that, the driver did not have a valid licence to drive transport vehicle and secondly, the quantum of

compensation has been assessed excessively by adding 25% future prospects, though the deceased had no fixed job.

5. Upon hearing Mr. Singh, learned counsel for claimant – Respondents, the admitted fact appears that the offending tractor-trolley had unladen weight of 5500 Kg. jointly and the driver was authorized to drive a light motor vehicle. So keeping in view the definition prescribed under Section 2(21) of the MV Act, such contention raised by Mr. Mohapatra is rejected.

6. With regard to submission regarding addition of future prospects to the extent of 25%, it is seen that undisputedly the deceased was aged about 50 years 3 months 8 days as per his date of birth recorded in the pension papers under Ext.11 and 12. Therefore it is clear that the deceased had crossed 50 years of age. As such, he is treated as a person within the age group of 50 to 60 years and as per the principles decided in the case of ***National Insurance Company Ltd. v. Pranay Sethi and Others (2017) 16 SCC 680,*** future prospects to the extent of 10% is liable to be added. Counting on the same, the amount of compensation is liable to be reduced by Rs.70,200/-. Thus the total compensation is fixed at Rs.5,84,800/-, rounded to Rs.5,85,000/-, payable by the insurer along with interest.

7. In the result, the appeal is disposed of with a direction to the insurers – Appellant to deposit the reduced compensation amount of Rs.5,85,000/- (five lakh eighty-five thousand) along with interest @ 6% per annum from the date of filing of the claim application, i.e. 28th December, 2011 before the tribunal within a period of two months from today; where-after the same shall be disbursed in favour of the

claimant – Respondents on such terms and proportion to be decided by the learned Tribunal.

8. The statutory deposit made by the insurer - 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.

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

(B.P. Routray)
Judge

M.K.Panda