

IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA No.41 of 2007

From the Judgment / Order dated 22.07.2006 passed by the learned Second Addl. District Judge-cum- MACT, Cuttack in M.V. Misc. Case No.990 of 1998.

.....

Dibakar Behera

....

Appellant

-versus-

Krutibas Samal & Another

....

Respondents

For Petitioners : M/s. Ajaya Pradhan,
R.N.Mohanty, S.K.Swain.

For Opp. Parties : M/s. A.K.Nath.

PRESENT:

THE HONBLE JUSTICE BIRAJA PRASANNA SATAPATHY

Date of Hearing: 08.04.2022 and Date of Order: 20.04.2022

Biraja Prasanna Satapathy, J.

Misc. Case No.2473 of 2015

1. This matter is taken up through Hybrid Mode.
2. Considering the grounds taken in the petition, the delay in filing the application for substitution is condoned.
3. The Misc. Case is disposed of.

(Biraja Prasanna Satapathy)
Judge

Misc. Case No.2471 of 2015

1. This is an application for substitution of deceased-Respondent No.1.

2. In spite of due service of notice, nobody has entered appearance for the LR's of the deceased-Respondent No.1.
3. Considering the grounds taken in the Petition, the Petition for substitution is allowed.
4. The legal heirs of the deceased-Respondent No.1 be substituted as Respondent Nos. 1(A) to 1(C).
5. The Misc. Case is disposed of accordingly.

(Biraja Prasanna Satapathy)
Judge

Misc. Case No.2472 of 2015

1. In view of the order passed in Misc. Case No.2471 of 2015, the order of abatement passed against Respondent No.1 is also set aside.
2. The Misc. Case is disposed of.

(Biraja Prasanna Satapathy)
Judge

MACA No.41 of 2007

1. Heard Mr. Pradhan, learned counsel for the Appellant and Mr. A.K. Nath, learned counsel appearing for Respondent No.2.
2. This appeal has been filed challenging the quantum of compensation allowed vide the impugned order dated 22.07.2006, passed in M.V. Misc. Case No.990 of 1998 by

the learned Second Addl. District Judge-cum- MACT, Cuttack.

3. It is submitted by Mr. Pradhan, learned counsel appearing for the Appellant that even though the appellant in his claim application prayed for award of compensation to the tune of Rs.1,00,000/- and in support of the same necessary documents were exhibited by him, but learned Tribunal without proper appreciation of the claim and without taking into account the injury sustained by the appellant, allowed the claim with a direction on the respondent No.2-Company to pay compensation of Rs.25,000/- with cost of Rs.500/- within a period of one month, failing which interest @ 6% per annum will be charged against respondent No.2.

4. Accordingly, Mr. Pradhan, learned counsel for the appellant prayed for interference of this Court and to enhance the award so passed by the learned Tribunal.

5. Mr. Nath, learned counsel appearing for the Respondent No.2-Company submitted that learned Tribunal taking into account the materials available on record rightly allowed the compensation to the tune of Rs.25,000/- in favour of the appellant and the said amount has already been paid in the meantime.

6. Accordingly, Mr. Nath prayed that the appeal is liable to be dismissed.

7. Having heard learned counsel for the Parties and taking into account the nature of claim vis-à-vis the nature of injury sustained by the appellant and the documents relied on by him, this Court when took a view to enhance the compensation by further amount of Rs.20,000/- consolidated, Mr. Pradhan, learned counsel appearing for the Appellant supported the said view of this Court.

8. Mr. Nath, learned counsel appearing for the Respondent No.2 left the said view to the discretion of this Court.

9. In view of such stand taken by the learned counsel for both the Parties, this Court while disposing the appeal direct the Respondent-Company to pay further compensation amount of Rs.20,000/- consolidated in favour of the appellant. The aforesaid amount be paid by the Respondent-Company within a period of eight weeks from the date of receipt of the order.

10. With the aforesaid observations and directions, the MACA stands disposed of.

(Biraja Prasanna Satapathy)
Judge

Orissa High Court, Cuttack
Dated the 20th of April, 2022/Subrat