

IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA No.26 of 2021

MACA Nos.26 & 155 of 2021

Rashmi Ranjan Mohanty (In MACA No.26/2021)

***The Sr. Divisional Manager, Oriental
Insurance Company Ltd.*** (In MACA No.155/2021)

.... ***Appellants***

Mr. D.C. Dey, Advocate (in MACA No.26/2021)

Mr. Subrat Satpathy, Advocate (in MACA No.155/2021)

-versus-

Imran Khan and Another (In MACA No.26/2021)

Rashmi Ranjan Mohanty and Anr. (In MACA No.155/2021)

.... ***Respondents***

Mr. Subrat Satpathy, counsel for Respondent No.2
(in MACA No.26/2021)

Mr. D.C. Dey, counsel for Respondent No.1
(in MACA No.155/2021)

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

**ORDER
6.9.2022**

Order No.

- 08.
1. The matters are taken up through hybrid mode.
 2. Heard Mr. D.C. Dey, learned counsel for the injured-claimant and Mr. S. Satpathy, learned counsel for insurance company.
 3. I.A. No.417 of 2021 arising out of MACA No.155 of 2021 is disposed of as no delay is there as per stamp reporting.

4. Both the appeals being arise out of same judgment, are heard together and disposed of by this common order.

5. Both the appeals are against the same impugned judgment dated 21st December, 2020 of learned 4th MACT, Cuttack passed in MAC Case No.698 of 2017 wherein compensation to the tune of Rs.2,00,000/- along with interest @ 6% per annum from the date of filing of the claim application, i.e. 12th September, 2017 has been granted on account of injuries sustained by the claimant in the motor vehicular accident dated 9th September, 2016.

6. MACA No.26 of 2021 has been preferred by the injured-claimant praying for enhancement of the compensation amount, whereas MACA No.155 of 2021 has been preferred by the insurer challenging the award.

7. First dealing with the challenges advanced by the insurer, it is submitted by Mr. Satpathy that the tribunal has failed to appreciate the exact amount of expenses spent on respective heads and further, the accident being a front clash between two motor cycles where the injured was one of the riders, the tribunal has failed to apportion appropriate share on the part of the injured.

8. On the other hand Mr. Dey contends on behalf of the injured – claimant that keeping in view his period of treatment in SCB Medical College and Hospital, Cuttack as an indoor patient the amount of compensation granted by the tribunal needs to be enhanced.

9. Upon perusal of the impugned judgment it reveals that the tribunal upon discussion of the income and the injuries as well as

treatment undergone by the injured, directed for payment of consolidated sum of Rs.2,00,000/- towards medical expenses, attendant cost, loss of income during the period of treatment, pain and suffering, transportation and special diet in total. The discharge certificate issued by SCB Medical College under Ext.10, as produced by Mr. Dey in course of hearing, reveals that the claimant was admitted in the hospital from 9th September, 2016 till 22nd February, 2016 due to Basi Frontal Contusion on the head with repeated case of vomiting, ear bleeding and convulsion. The date of accident is 9th September, 2016 and the injured was referred to SCB Medical College and Hospital by the local CHC. Therefore, considering the period of treatment as indoor patient in SCB Medical College and Hospital as well as the nature of injuries mentioned in the discharge certificate, I do not find any fault in the approach of the tribunal in granting compensation of Rs.2,00,000/- as a whole. In absence of any specific document or evidence with regard to the medical expenses, I do not see any reason in favour of the claimant to enhance the compensation amount.

10. So far as the submission regarding apportionment of the compensation amount is concerned, it is seen that the police has submitted charge-sheet against the present injured-claimant along with the driver of the other motor cycle for their criminal prosecution. Since present injured has come up claiming compensation, considering such lesser amount of compensation as directed to be paid, no substantial reason is seen to share the compensation amount between both the drivers. Admittedly, present insurer is liable to indemnify the amount on behalf of the driver of the motor cycle

bearing registration number OD 05 S 6898. As such, I am not inclined to share the compensation amount by the injured.

11. Resultantly, both the appeals are dismissed and the insurer, i.e. Oriental Insurance Co. Ltd. is directed to deposit the entire award amount along with interest in terms of the direction of the Tribunal within a period of two months from today, which shall be disbursed in favour of the injured – claimant as per the direction contained in the impugned judgment.

12. However the penal interest of 12% as directed by the tribunal is waived.

13. The statutory deposit made by the insurer – Appellant in MACA No.155 of 2021 before this court along with accrued interest be refunded on proper application and on production of proof of deposit of the awarded amount before the tribunal.

14. The copy of Ext.10 as filed by Mr. Dey is kept on record.

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

(B.P. Routray)
Judge