

IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA No.222 of 2017

***Divisional Manager,
Bajaj Allianz Insurance Co. Ltd.***

.... Appellant
Mr.G.P.Dutta, Advocate

-versus-

Minati Sing and others ***.... Respondents***
Mr.B.B.Singh, Advocate for Respondent Nos.1 to 3

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

ORDER
2.12.2022

Order No.

7.

1. The matter is taken up through Hybrid mode.
2. Heard Mr.Dutta, learned counsel for the Appellant and Mr.Singh, learned counsel for the claimants- Respondent Nos.1 to 3.
3. Present appeal by the insurer is against the judgment dated 2nd December, 2016 of the THIRD M.A.C.T., Balasore in M.A.C. Case No.65/09 of 2011/2010, wherein compensation to the tune of Rs.3,64,500/- has been granted along with interest @12% per annum with effect from the date of filing of the claim application on account of death of the deceased in the motor vehicular accident on 13th March, 2007.
4. Mr. Dutta submits that the deceased was a gratuitous passenger in the offending vehicle, i.e. Tractor and Trolley bearing Registration Nos.OR-01H-9929 & OR-01H-9930.

5. No merit is seen in said submission of the Insurer-Appellant since admittedly the tractor attached to the trolley is a goods vehicle and as such, the case of the claimants that the deceased was travelling as a labourer therein is justified.

6. Next with regard to quantum of compensation, upon hearing both parties and considering all such grounds of challenge advanced, a reduced compensation of Rs.3,30,000/- along with interest @6% per annum is proposed to the parties in course of hearing. This is agreed by Mr. Singh, learned counsel for the claimants. Mr. Dutta, learned counsel for the Insurer leaves it to the discretion of the Court. As such, the amount is fixed to that extent.

7. The Insurer-Appellant is directed to deposit the reduced compensation of Rs.3,30,000/- (Three lakhs thirty thousand) before the Tribunal along with interest @6% per annum from the date of filing of the claim application within a period of two months from today; where-after the same shall be disbursed in favour of the claimants on such terms and proportion to be fixed by the Tribunal. It goes without saying that the right of recovery granted in favour of the Insurer-Appellant by the Tribunal is left undisturbed.

8. With aforesaid modification in the compensation amount, the appeal is disposed of.

9. The statutory deposit made by the Appellant with accrued interest thereon be refunded to him on proper application and on production of proof of deposit of the award amount before the learned Tribunal.

10. Urgent certified copy of this order be granted on proper application.

(B.P. Routray)
Judge

C.R.Biswal

