

IN THE HIGH COURT OF ORISSA AT CUTTACK
MACA No.183 of 2017

***M/s. Shriram General Insurance
Company Ltd., represented through its
Authorized Signatory, Sitapur, Jaipur,
Rajasthan***

Appellant

Mr. J.R. Deo, Advocate

-versus-

Smt. Maliani Bagh and Another

Respondents

Mr. S.K. Das, counsel for Respondent No.1

CORAM:
SHRI JUSTICE B. P. ROUTRAY

ORDER
9.12.2022

Order No.

10. 1. The matter is taken up through hybrid mode.
2. Heard Mr. J.R. Deo, learned counsel for the insurer –Appellant
 and Mr. S.K. Das, learned counsel for claimant – Respondent No.1.
3. Present appeal by the insurer is against the impugned judgment
 dated 20th December, 2016 of the learned District Judge-cum-MACT,
 Rayagada passed in MAC No.10 of 2016, wherein compensation to
 the tune of Rs.9,00,000/- along with interest @ 9% per annum from
 the date of filing of the claim application has been granted on account
 of death of deceased Subendhu Bagh in the motor vehicular accident
 dated 10th May, 2015.
4. Mr. Deo, learned counsel submits on behalf of the insurer –
 Appellant that the tribunal has committed illegality by taking the
 income of the deceased at Rs.300/- per day against the prevalent

minimum wage rate. He thus disputes the quantum of compensation and according to him, the same needs to be reduced.

5. Upon hearing Mr. Das, learned counsel for the claimant Respondent No.1 and perusal of the impugned judgment reveals that, the case of the claimant is that the deceased was working as a mason and on the date of accident he was a bachelor aged about 25 years. Though the tribunal accepted him as a mason without disputing his age, but applied the multiplier considering the age of his mother, the claimant. This approach of the tribunal is against the settled principles of law and the age of the deceased has to be considered to decide the multiplier. Further, as per the notification in SRO No.150 dated 30th April, 2015 of Government of Odisha, the prescribed rate of minimum wage on the date of accident was Rs.200/- for unskilled labourer, Rs.220/- for semi-skilled, Rs.240/- for skilled labourer and Rs.260/- for highly skilled labourer. The date of accident being 10th May, 2015, the assessment of the tribunal with regard to income of the deceased is thus found with error and the same is corrected to Rs.200/- per day.

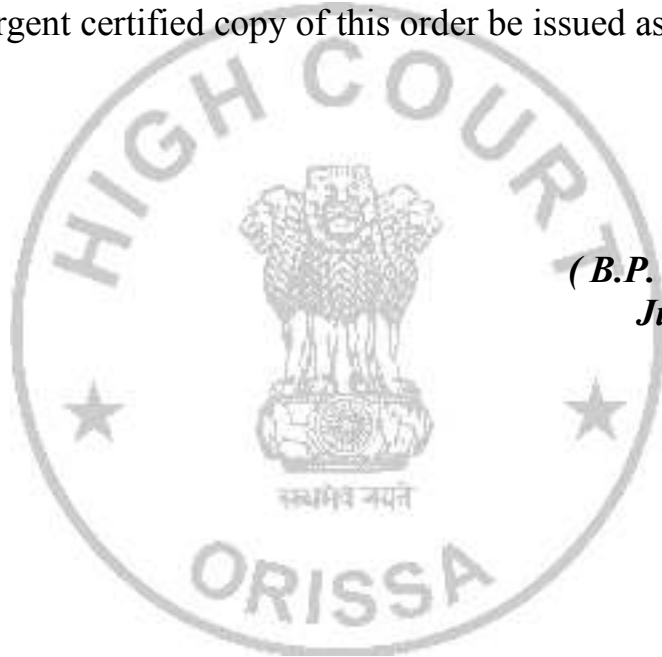
6. Considering all such factors and the grounds advanced, a modified compensation of Rs.6,85,000/- along with 6% interest is proposed to the parties. This is agreed by Mr. Das, learned counsel for the claimant – Respondent No.1 and Mr. Deo, learned counsels for the insurer leaves it to the discretion of the court. Accordingly the compensation amount is fixed to the said extent.

7. In the result, the appeal is disposed of with a direction to the Appellant – insurer to deposit the modified compensation amount of Rs.6,85,000/- (six lakhs eighty-five 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; whereafter the same shall be disbursed in favour of the claimant – Respondent No.1 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 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