

IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA No.760 of 2017

Sr.Divisional Manager, National Insurance Co. Ltd. ***Appellant***

Mr.S.Satpathy, Advocate

-versus-

Sebati Kalandi and others ***Respondents***

Ms.Manasi Mohapatra, Advocate
for Respondent Nos.1 to 4

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

ORDER
13.10.2022

Order No.

7.

1. The matter is taken up through Hybrid mode.
2. Heard Mr.Satpathy, learned counsel for the Appellant-Insurer and Ms.Mohapatra, learned counsel for claimants-Respondent Nos.1 to 4.
3. Present appeal by the Insurer-Appellant is against the judgment dated 27th March, 2017 of the learned Addl. District Judge-cum-Judge 3rd MACT, Champua in MAC Case No.01 of 2015, wherein compensation to the tune of Rs.7,66,000/- has been granted along with interest @6% 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 15th November, 2014.

4. The main contention of the Insurer is that the deceased is not entitled for 30% future prospects being 52 years of age on the date of accident and further, the Insurer is liable to recover the amount from the owner as the driver was without having a valid driving license.

5. It is submitted by Mr.Satpathy, learned counsel for the Insurer that the driver of the offending motorcycle was though having license to driver the light motor vehicle but did not have a valid driving license in respect of two wheelers. In support of his contention, he relies on Ext.B.

6. After hearing Ms.Mohapatra, learned counsel for claimants-Respondents and considering the admitted position that the driver was not authorized to drive a two wheeler, the Insurer-Appellant is granted liberty to recover the compensation amount from the owner in accordance with law after granting him opportunity of hearing.

7. Next on the question of quantum of compensation, taking the deceased 51 years old on the date of accident as held by the Tribunal, a reduced compensation of Rs.6,34,000/- along with interest @6% per annum is proposed to the parties in course of hearing. This is agreed by Ms.Mohapatra, learned counsel for the claimants-Respondent Nos.1 to 4. Mr.Satpathy, learned counsel for the Insurer leaves it to the discretion of the Court. As such, the amount is fixed to that extent. However, penal interest of 8% as directed by the Tribunal is waived.

7. The Insurer-Appellant is directed to deposit the reduced compensation of Rs.6,34,000/- (Six lakhs thirty four

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.

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