

**IN THE HIGH COURT OF ORISSA AT CUTTACK**

**MACA No.812 of 2016**

From the Judgment / Order dated 28.10.2015 passed by the learned 4<sup>th</sup> MACT, Baripada in MAC Case No.66 of 2012.

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**Divisional Manager, Oriental Insurance Co., Ltd.** ....

**Appellant**

*-versus-*

**Sulekha Behera & Others** ....

**Respondents**

**For Appellant :** M/s. A.A.Khan, S.K.Mishra,  
C.R.Dalai, S.K.Sahoo & J  
J.P.Tripathy.

**For Respondents :** M/s. B.Singh, P.B.Singh,  
T.K.Dash & S.K.Bose.

**PRESENT:**

**THE HONBLE JUSTICE BIRAJA PRASANNA SATAPATHY**

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Date of Hearing:12.05.2022 and Date of Order:18.05.2022  
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***Biraja Prasanna Satapathy, J.***

1. This matter is taken up through Hybrid Mode.
2. Heard Mr. A.A.Khan, learned counsel for the Appellant and Mr. B.Singh, learned counsel for the Claimant-Respondent Nos.1 & 2.
3. This appeal has been filed by the Appellant-Company challenging the judgment dated 28.10.2015 passed in MAC Case No.66 / 2012 by the learned 4<sup>th</sup> MACT, Baripada.
4. It is submitted by the learned counsel for the Appellant that the learned Tribunal while directing payment

of the compensation amount of Rs.4,47,000/- along with interest @ 7% per annum payable from the date of filing of the application till its realization, but learned Tribunal did not take into consideration the objection made by the Appellant-Company with regard to the monthly income of the deceased.

**5.** It is also submitted that even though violation of the policy condition was raised, but no right of recovery was also allowed and interest was allowed @ 7% per annum, which is on the higher side.

**6.** Mr. Khan, further submitted that in absence of any material in support of the income, learned Tribunal wrongly held the said income @ of Rs.6,000/- per month.

**7.** Accordingly, Mr. Khan prayed for interference of this Court with regard to the compensation allowed by the learned Tribunal.

**8.** Mr. Singh learned counsel for the Claimants-Respondents though supported the same, but failed to satisfy this Court with regard to the stand taken by the Appellant-Company with regard to the monthly income taken by the learned Tribunal while deciding the matter.

**9.** Heard learned counsel for the Parties at length. Perused the materials available on record. After going through the same, this Court when came to a conclusion that the Claimants-Respondents will be entitled to get compensation amount of Rs.3,90,000/- with interest @ 6 % per annum payable from the date of application till its

realization, Mr. Singh learned counsel for the Claimants-Respondents supported the said view of this Court.

**10.** Mr. Khan, learned counsel for the Appellant-Company left the said view to the discretion of this Court.

**11.** In view of such stand taken by the learned counsel for the Parties, this Court directs the Appellant-Company to pay compensation amount of Rs.3,90,000/- with interest @ 6% per annum payable from the date of application i.e. 25.06.2012 till its realization within a period of eight weeks from the date of receipt of this order with right of recovery as against the Owner – Respondent No.3.

**12.** It is directed that the Appellant-Company shall deposit the aforesaid compensation amount along with interest so assessed by this Court before the learned Tribunal within the aforesaid period.

**13.** It is observed that on such deposit of the amount, learned Tribunal shall disburse the same in favour of the Claimants-Respondents proportionately and in terms of the earlier order passed on 28.10.2015.

**14.** It is however observed that if the Appellant-Company fails to deposit the amount so directed hereinabove, the Claimants-Respondents will be entitled to get interest @ 7 % per annum on the compensation amount of Rs.3,90,000/- for the period starting from the expiry the period of eight weeks till its payment.

**15.** It is also observed that since this Court is allowing right of recovery as against the Owner-Respondent No.3, if any such application is filed by the Appellant-Company for

recovery of the amount, the said Respondent No.3 shall be given reasonable opportunity of hearing and learned Tribunal shall decide the said application strictly in accordance with law.

**16.** It is further observed that only after deposit of the entire amount so directed hereinabove, the Appellant-Company shall be permitted to take refund of the statutory deposit from the Registry of this Court on proper identification.

**17.** With the aforesaid observations and directions the MACA stands disposed of.

**(Biraja Prasanna Satapathy)**  
**Judge**

Orissa High Court, Cuttack  
Dated the 18<sup>th</sup> of May, 2022/Subrat