

IN THE HIGH COURT OF ORISSA AT CUTTACK
MACA No.139 of 2017

Sulochana Mohapatra and Others ***Appellants***

Mr. P.K. Mishra, Advocate

-versus-

Sekh Samsudin and Another ***Respondents***

Mr. G.P. Dutta, counsel for Respondent No.2

CORAM:
SHRI JUSTICE B. P. ROUTRAY

ORDER
9.12.2022

Order No.

08. 1. The matter is taken up through hybrid mode.
2. Heard Mr. P.K. Mishra, learned counsel for the claimant – Appellants and G.P. Dutta, learned counsel for insurer – Respondent No.2.
3. The power filed by Mr. Dutta is kept on record.
4. Present appeal by the claimants is against impugned judgment dated 16th November, 2016 of learned 5th MACT, Khurda passed in MAC No.73 of 2012, wherein compensation to the tune of Rs.5,70,990/- along with interest @ 6% per annum from the date of filing of the claim application, i.e. 4th August, 2012 has been granted on account of death of deceased Umakanta Mohapatra in the motor vehicular accident dated 20th January, 2012.
5. Mr. Mishra contends on behalf of the claimants that the tribunal has erroneously counted monthly income of the deceased at the prevalent minimum wage rate despite the deceased was a Diploma

holder and serving under Metro Polythene Manufacturers, Dabhel, NaniDaman-396210 (U.T.) to get salary of Rs.5,800/- per month. He further submits that, the tribunal has ignored the entire evidence adduced in respect of income of the deceased including Ext.7 and Ext.10 on flimsy grounds.

6. Upon perusal of the impugned judgment it is seen that the fact of having Diploma qualification by the deceased is not disputed. In support of employment and income of the deceased, Ext.7 has been adduced in addition to oral evidence. Thus, no reason is seen to disbelieve the same and the grounds mentioned by the tribunal to disbelieve it are not found reasonable. However, since the qualification of the deceased as a Diploma holder is not disputed, his income at Rs.5000/- per month can very-well be fixed against the assessment of the tribunal at Rs.3,600/-. It is further seen that the tribunal did not add any future prospect to the income of the deceased and further did not grant any consortium to the father.

7. Considering all such factors and upon hearing both parties, a further consolidated sum of Rs.4,00,000/- is proposed to the parties. This is agreed by Mr. Mishra, learned counsel for the claimant – Appellants and Mr. Dutta, learned counsel for the insurer leaves it to the discretion of the court. Accordingly the compensation amount is fixed to the said extent.

8. In the result, the appeal is disposed of with a direction to the insurer – Respondent No.2 to deposit a further consolidated sum of Rs.4,00,000/- (four lakhs) before the tribunal, within a period of two months from today; where-after the same shall be disbursed in favour

of the claimant – Appellants on such terms and proportion to be decided by the learned tribunal.

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

(B.P. Routray)
Judge

M.K.Panda

