

IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA Nos.271 of 2013 & 727 of 2012

From the Judgment / Order dated 26.06.2012 passed by the learned 4th M.A.C.T., Puri in M.A.C Case No.152 / 379 of 2002/2001.

MACA No.271 of 2013

National Insurance Co., Ltd.

Appellant

-versus-

Sarat Chandra Mohanty & Another

Respondents

For Appellant : M/s. Gautam Misra & D.K.Patra.

For Respondents : M/s. B.P.Mohanty & A.K.Jena.

MACA No. 727 of 2012

Sarat Chandra Mohanty

Appellant

-versus-

Shree Ganesh Industries & Another

Respondents

For Appellant : M/s. L.N.Rayatsingh, A.K.Jena & B.P.Mohanty.

For Respondents : M/s. Goutam Mishra, D.K.Patra & A.Dash.

PRESENT:

THE HONBLE JUSTICE BIRAJA PRASANNA SATAPATHY

Date of Hearing: 25.04.2022 and Date of Order: 04.05.2022

Biraja Prasanna Satapathy, J.

1. This matter is taken up through Hybrid Mode.
2. Since both the appeals arises out of a common impugned judgment passed on 26.06.2012 in M.A.C Case No.152 / 379 of 2002/2001 by the learned 4th M.A.C.T., Puri, the same are taken up together for the sake of brevity and convenience and accordingly disposed of by this common order.
3. Heard learned counsel for the Parties.
4. While MACA No.271 of 2013 has been filed by the Insurer-Appellant/Company challenging the quantum of compensation, MACA No.727 of 2012 has been filed by the Claimants seeking enhancement of the said compensation.
5. Learned Tribunal vide the impugned judgment dated 26.06.2012 while allowing the claim directed the Appellant-Company/insurer to pay compensation of Rs.1,96,369/- along with interest @ 7.5 % per annum from the date of application i.e. 21.08.2001 till its realization.
6. Mr.G.Mishra, learned Senior Counsel for the Appellant-Company in MACA No.271 of 2013 submitted that the Claimants being the injured, learned Tribunal in absence of any disability certificate produced by the said claimant illegally held the disability to the extent of 50% and accordingly awarded compensation of Rs.1,96,369/-.
7. It is also submitted that in support of his injury, the Claimant never examined the concerned doctor in question. It is also submitted that awarding of interest @ 7.5 % per annum

is on the higher side and at the prevalent time, interest of 7.5% per annum should not have been allowed.

8. Mr. Mohanty, learned counsel appearing for the Claimant submitted that the learned Tribunal taking into account the nature of injury exhibited vide Ext.3 rightly came to the conclusion that the Claimant suffers from 50% disability and rightly allowed the claim application vide the impugned judgment.

9. It is also submitted that Court being the expert of experts, learned Tribunal taking into account the nature of injury rightly held the disability at 50%.

10. Mr. Mohanty further submitted that in view of the finding of learned Tribunal by holding the disability at 50%, learned Tribunal should have allowed more compensation than that has been awarded vide the impugned judgment.

11. Heard learned counsel for the Parties at length.

12. Perused the materials available on record and after going through the same, this Court is of the opinion that though with regard to the nature of injury sustained by the Claimant, Ext.3 was duly exhibited, but no disability certificate issued by the competent authority was ever filed and learned Tribunal in absence of the opinion of the doctor, should not have taken the disability at 50%. Not only that awarding of interest @ 7.5% per annum in respect of an accident occurred in the year 2001 is also in the higher side and the learned Tribunal should not have allowed such rate of interest.

13. Therefore, this Court after perusing all the materials available on record when came to a conclusion to reduce the compensation amount from Rs.1,96,000/- to Rs.1,60,000/- with interest payable @ 6% per annum from the date of application till its payment. Mr. Mohanty, learned counsel for the Claimant-Respondent supported the said view of this Court.

14. Mr. Mishra, learned counsel for the Appellant-Company/Insurer left the said view to the discretion of this Court.

15. In view of such stand of the respective counsels, this Court while disposing both the appeals directs the Appellant-Company to pay compensation of Rs.1,60,000/- with interest payable @ 6 % per annum from the date of application i.e. 21.08.2001 till its payment within a period of eight weeks from the date of receipt of this order.

16. It is further directed that if the Appellant-Company fails to pay the compensation along with interest so assessed by this Court within the period indicated hereinabove, the Appellant-Company shall be liable to pay interest @ 7 % per annum on the compensation amount of Rs.1,60,000/- for the period starting from the expiry of the period of eight weeks till its payment.

17. It is further observed that only after payment of compensation amount along with interest so assessed by this Court within the time indicated hereinabove, the Appellant-Company shall be permitted to take refund of the statutory

deposit along with accrued interest thereon from the Registry of this court on proper identification.

18. With the aforesaid observations and directions, both the MACAs stands disposed of.

(Biraja Prasanna Satapathy)
Judge

Orissa High Court, Cuttack
Dated the 4th of May, 2022/Subrat

