

IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA NO.36 OF 2022

From the Judgment/Order dated 28.10.2021 passed by the learned 3rd MACT, Bhadrak in MAC Case No.26/2016.

Oriental Insurance Co. Ltd. :::: Appellant

-:: VERSUS ::-

Indira Sahu & Ors. :::: Respondents

Appeared in this case by Video Conferencing Mode / Hybrid

Mode.

**For Appellant :::: Mr. S.K. Mohanty, Advocate
(for Appellant-Company)**

**For Respondent :::: Mr. B.B. Singh, Advocate
(for Claimant-Respondent
No.1 to 3)**

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PRESENT :

THE HON'BLE MR. JUSTICE B.P.SATAPATHY

Date of Hearing- 27.06.2022:: Date of Order- 12.07.2022

B.P.Satapathy, J. This matter is taken up through Hybrid
Arrangement (Virtual/Physical) Mode.

2. Heard Mr. S.K. Mohanty, learned counsel appearing for the Appellant-Company and Mr. B.B. Singh, learned counsel appearing on behalf of Claimant-Respondent Nos. 1 to 3.

3. This appeal has been filed challenging the award dtd.28.10.2021 passed by the learned 3rd MACT, Bhadrak in MAC Case No.26 of 2016.

4. Mr. Mohanty, learned counsel for the Appellant submitted that learned Tribunal in absence of any material with regard to the income of the deceased, held his monthly income at Rs.15,000/- (Rs. Fifteen thousand) and accordingly after applying the multiplier, directed the Appellant-Company to pay compensation amount of Rs.21,70,000/- (Rs. Twenty one lakh seventy thousand) along with interest @ 7% per annum payable from the date of filing of the claim Petition i.e.21.03.2016 till its payment. Mr. Mohanty further submitted that even though the Company raised a point with regard to the authenticity of the driving license, but learned Tribunal did not consider the same in its proper prospective and no right of recovery has been allowed. Mr. Mohanty further submitted that the rate of interest allowed @ 7% per annum is also on the higher side as the prevailing rate of interest at that point of time cannot be @ 7% per annum. Accordingly, Mr. Mohanty prayed for interference of this Court in the matter.

5. Mr. Singh, learned counsel appearing for the Claimants-Respondents though supported the award, but failed to show any document which was relied on by the learned Tribunal with regard

to the monthly income of the deceased. But it is submitted that basing on the evidence laid by the Claimants, learned Tribunal rightly held the monthly income at Rs.15,000/- (Rs. Fifteen thousand) and compensation has been rightly passed.

6. Heard learned counsel for the Parties at length. Perusal of the materials available on record shows that no document of any nature has been exhibited with regard to the income of the deceased. Therefore, taking into account the occupation of the deceased, even if he will be treated as a skilled employee, his monthly income as per the prevailing minimum wages prescribed by the Govt. cannot be held at Rs.15,000/- (Rs. Fifteen thousand). After having heard learned counsel appearing for the Parties, this Court when came to a finding that the Claimants-Respondents will be entitled to get compensation amount of Rs.15,00,000/- (Rs. Fifteen lakh) with interest payable @ 6% per annum payable from the date of filing of the application i.e. 21.03.2016 till its payment with right of recovery as against the owner of the vehicle i.e. Respondent No. 4, Mr. Singh, learned counsel appearing for the Claimants-Respondent Nos.1 & 2 supported the said view of this Court. Mr. Mohanty, learned counsel appearing for the Appellant-Company left the said view to the discretion of this Court.

7. In view of such stand taken by the learned counsel appearing for both the Parties, this Court while disposing the appeal held that the Claimants-Respondents will be entitled to get compensation amount of Rs.15,00,000/- (Rs. Fifteen lakh) with interest payable @ 6% per annum payable from the date of filing

of the application till its payment with right of recovery as against the Respondent No. 4. This Court accordingly directs the Appellant-Company to deposit the aforesaid compensation amount of Rs.15,00,000/- (Rs. Fifteen lakh) with interest payable @ 6% per annum before learned Tribunal within a period of eight (8) weeks from the date of receipt of this Order.

8. It is observed that on such deposit of the compensation amount along with interest within the time indicated hereinabove, learned Tribunal shall disburse the same in terms of order dt.28.10.2021. It is however observed that if the Appellant fails to deposit the amount so assessed by this Court within the time indicated above, then the compensation amount of Rs.15,00,000/- (Rs. Fifteen lakh) will carry interest @ 7% per annum for the period starting from the expiry of the period of 8(eight) weeks till its payment.

9. Since this Court allows right of recovery as against the owner-Respondent No. 4, it is observed that if any such application for recovery of the amount is filed by the Appellant-Company, learned Tribunal shall deal with the same strictly in accordance with law and by giving reasonable opportunity of hearing to the Respondent No. 4.

10. It is further observed that only after deposit of entire amount along with interest before the learned Tribunal as directed 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.

11. The appeal is disposed of in terms of the aforesaid observation and direction.

(Biraja Prasanna Satapathy)
Judge

Orissa High Court, Cuttack
The 12th July, 2022/Sneha

