

IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA NO.69 OF 2019

From the Judgment/Order dated 11.09.2018 passed by the learned District Judge –cum- 1st MACT, Bargarh in MAC Case No.88/2015.

National Insurance Co. Ltd. :::: Appellant

-:: VERSUS ::-

Upendra Buda & Ors.. :::: Respondents

Appeared in this case by Video Conferencing Mode / Hybrid Mode.

**For Appellant :::: Ms. M. Padhi, Advocate
(for Appellant-Company)**

**For Respondent :::: Mr. P.K. Nayak, Advocate
(for Claimants-Respondent
No. 3)**

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PRESENT :

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

Date of Hearing- 12.07.2022 :: Date of Order- 20.07.2022

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

2. Heard Ms. M. Padhy, learned counsel appearing for the Appellant-Company and Mr. P.K. Nayak, learned counsel appearing for the Claimants-Respondent Nos. 1 to 3.

3. This appeal has been filed by the Appellant-Company challenging the Judgment dated 11.09.2018 passed in MAC No. 88/2015 by the learned District Judge –cum- 1st MACT, Bargarh.

4. Ms. Padhy, learned counsel appearing for the Appellant-Company submitted that learned Tribunal without considering the grounds raised by the Appellant-Company assessed the compensation illegally at the higher side. It is also submitted that learned Tribunal assessed the compensation amount of Rs, 5,76,200/- (Rs. Five lakh seventy six thousand two hundred) along with interest 7% per annum payable from the date of application till its payment. It is submitted that the rate of interest is also on the higher side as the prevalent rate of interest cannot be taken 7%. Accordingly, it is submitted that the impugned Judgment needs interference of this Court.

5. Mr. Nayak, learned counsel appearing for the Claimants-Respondents on the other hand submitted that the compensation has been rightly assessed by the learned Tribunal taking into account the materials available on record and no interference is called for by this Court.

6. Heard, learned counsel for the Parties. Perused the materials available on record. After going through the same this Court when came to a finding that since the deceased has an unmarried

daughter, learned Tribunal should have deducted 50% of his income instead of $\frac{1}{3}^{\text{rd}}$. Therefore, this Court after perusing the materials available on record when came to a finding that the Claimants –Respondents will be entitled to get compensation amount of Rs.4,50,000/- (Rs. Four lakh fifty thousand) along with 6% per annum. Mr. Nayk, learned counsel for the Claimants-Respondents supported the said view of this Court. Ms. Padhy, learned counsel appearing for the Appellant-Company left the same to the discretion of this Court.

7. In view of such stand taken by the learned counsel appearing for the Parties, this Court while interfering with the impugned Judgment held that the Claimants-Respondents will be entitled to get compensation amount of Rs.4,50,000/- (Rs. Four lakh fifty thousand) along with interest @ 6% per annum payable from the date of application till its realization.

8. While holding so this Court directs the Appellant-Company to deposit the aforesaid compensation amount of Rs.4,50,000/- (Rs. Four lakh fifty thousand) along with interest so directed by the learned Tribunal before the said Tribunal within a period of eight (8) weeks from the date of receipt of this order. It is directed that on such deposit of the amount by the Appellant-Company learned Tribunal shall do well to disburse the same in favour of the Claimants-Respondents proportionately and in terms of its order dated 11.09.2018.

9. However, it is observed that if the Appellant-Company will fail to deposit the aforesaid compensation amount so assessed by this

Court within the period stipulated hereinabove, the compensation amount of Rs.4,50,000/- (Rs. Four lakh fifty thousand) will carry interest @ 7% per annum for the period starting from the expiry of the period of eight(8) weeks from the receipt of this order.

10. It is further observed that only after deposit of the 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 from the Registry of this Court on proper identification.

11. This appeal is accordingly disposed of with the aforesaid observation and direction.

(Biraja Prasanna Satapathy)
Judge

Orissa High Court, Cuttack
The 20th July, 2022/Sneha