

IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA No.1052 of 2016

From the Judgment / Order dated 30.05.2016 passed by the learned 2nd M.A.C.T., Northern Division, Sambalpur in M.A.C Case No.87/2013.

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

Appellant

-versus-

Ranjita Pradan & Others

Respondents

For Appellant : M/s. Subrat Satpathy & J.Praharaj.

For Respondents : M/s. G.M. Rath, S.K.Patnaik, S.S.Rao & P.Mohanty.

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.** Heard Mr. S. Satapathy, learned counsel for the Appellant and Mr. G.M.Rath, learned counsel for the Claimants-Respondent Nos.1 to 4.
- 3.** This appeal has been filed by the Appellant-Company challenging the judgment dated 30.05.2016 passed by the learned 2nd M.A.C.T., Northern Division, Sambalpur in M.A.C Case No.87/2013.

4. While assailing the impugned judgment, Mr. Satapathy, learned counsel for the Appellant submitted that learned Tribunal without considering the stand taken by the Appellant-Company and without following the provision of law illegally awarded 50% of the salary towards future prospects and awarded a sum of Rs.1,55,000/- towards non-pecuniary benefits, which is on the higher side.

5. It is also submitted by the learned counsel for the Appellant that though the learned Tribunal in the finding held the Appellant-Company liable to recover the compensation from the owner of the offending vehicle, but in the ordering portion no right of recovery has been allowed as against the owner-Respondent No.5. Accordingly, Mr. Satapathy prayed for interference of this Court in the impugned judgment.

6. Mr. Rath, learned counsel appearing for the Claimants-Respondent Nos.1 to 4 on the other hand submitted that learned Tribunal taking into account the materials available on record has rightly assessed the compensation at Rs.13,48,400/- with interest @ 6 % per annum payable from the date of application i.e. 03.07.2013 till its realization.

7. Accordingly, Mr. Rath, learned counsel for the Claimants submitted that no interference is called for by this Court in the impugned judgment.

8. Heard learned counsel appearing for both the parties at length.

9. Perused the materials available on record. After perusal of the records in detail, this Court finds that learned Tribunal has in fact allowed compensation towards future prospects @ 50%, though in view of the age of the deceased it should have been @40%. Similarly learned Tribunal while discussing the matter though came to a conclusion that the Appellant-Company is liable to recover the compensation amount from the owner, but no right of recovery was allowed against the owner-Respondent No.5 while disposing the matter.

10. Accordingly, this Court while interfering with the impugned judgment when came to a conclusion that the Appellant-Company shall pay compensation of Rs.12,00,000/- with interest @ 6% per annum payable from the date of application i.e. 03.07.2013 till its realization. Mr. Rath, learned counsel for the Claimants-Respondent Nos.1 to 4 supported the said view of this Court.

11. Mr. Satapathy, learned counsel for the Appellant-Company left the said view to the discretion of this Court.

12. In view of such stand taken by the learned counsel for both the Parties, this Court while disposing the appeal directs the Appellant-Company to pay compensation of Rs.12,00,000/- with interest @ 6% per annum payable from the date of application i.e. 03.07.2013 till its realization

within a period of eight weeks from the date of receipt of this order.

13. It is directed that the Appellant-Company shall deposit the compensation amount along with interest so assessed by this Court within the period as indicated hereinabove before learned Tribunal.

14. It is further observed that on such deposit of the compensation amount along with interest, learned Tribunal shall disburse the same in favour of the Claimant-Respondent Nos.1 to 4 proportionately and in terms of its earlier order passed on 30.05.2016.

15. It is further observed that if the Appellant-Company will fail to deposit the compensation amount along with interest so directed by this Court, the Appellant-Company shall be liable to pay interest @ 7 % per annum for the period beyond expiry of the period of eight weeks till its payment.

16. It is further observed that since this Court is allowing right of recovery as against the owner-Respondent No.5, it is observed that if any such application for recovery is moved by the Appellant-Company before learned Tribunal, learned Tribunal shall proceed with the same strictly in accordance with the law and by affording reasonable opportunity of hearing to the owner-Respondent No.5.

17. It is further observed that only after deposit of the compensation amount along with interest within the period indicated by this Court, 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.

18. With the aforesaid observations and directions the MACA stands disposed of.

(Biraja Prasanna Satapathy)
Judge

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

