IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA No.48 of 2022

The Divisional Manager, National Insurance Company Ltd.	....	***Appellant***

Mr. Ramani Ranjan Mohanty, Advocate

-versus-

Nandini Pradhan and Others	....	***Respondents***

Mr. Jagabandhu Sahu, counsel for Respondents 1-4

CORAM:
SHRI JUSTICE B. P. ROUTRAY

ORDER
13.10.2022

Order No.

03. 1. The matter is taken up through hybrid mode.

2. Heard Mr. R.R. Mohanty, learned counsel for the insurer – Appellant and Mr. J. Sahu, learned counsel for claimant-Respondents 1-4.

3. Present appeal by the insurer is against the impugned judgment dated 28th October, 2021 of the learned 5th MACT, Balangir in MAC Case No.34/84 of 2015-17 wherein compensation to the tune of Rs.34,78,483/- along with interest @ 6% per annum from the date of filing of the claim application, i.e. 17th March, 2015 has been granted on account of death of deceased Lalit Mohan Pradhan in the motor vehicular accident dated 23rd May, 2014.

4. It is submitted on behalf of the insurer that the application of multiplier '11' is erroneous and the appropriate multiplier should be '9'.

5. The claimant – Respondents have also prayed for enhancement of the compensation amount by filing cross-objection. Their ground is that the tribunal has not considered the income of the deceased from agricultural sector.

6. It is seen from the impugned judgment that the age of the deceased is accepted as 55 years based on the P.M. report. The deceased was a government servant, serving as Assistant Teacher. As per the service record his age on the date of accident was 56 years 2 months 20 days, being his date of birth on 3rd March, 1958. This aspect as submitted by Mr. Mohanty for the insurer is not disputed by Mr. Sahoo, learned counsel for the claimant – Respondents. Thus, the deceased being found within the age group of 56-60 years, the appropriate multiplier in terms of principles decided in the case of ***Sarla Verma v. DTC, reported in (2009) 6 SCC 121*** would be '9', which is accepted against multiplier '11' applied by the tribunal. Accordingly, the compensation amount is liable to be reduced to Rs.28,80,577/-, to which amount Mr. Mohanty as well as Mr. Sahoo agree.

7. It needs to be mentioned here that the claim for enhancement of compensation by the claimants is found without merit. This is for the reason that, admittedly the deceased was serving as an Assistant Teacher in a Government School and therefore, he could not have put any special effort for agricultural income. Moreover, when the lands

remain as it was, even after death of the deceased with the LRs., no question of enhancement on account of income there-from arises.

8. In the result, the appeal is disposed of with a direction to the insurer – Appellant to deposit the modified compensation of Rs.28,80,577/- (twenty-eight lakhs eighty thousand five hundred seventy-seven) before the tribunal along with interest @ 6% from the date of filing of the claim application, i.e. 17th March, 2015 within a period of two months from today; where-after the same shall be disbursed in favour of the claimant – Respondents on such terms and proportion to be decided by the tribunal.

9. The statutory deposit made by the insurer - Appellant before this court along with accrued interest be refunded to the Appellant - insurer on proper application and on production of proof of deposit of the awarded amount before the tribunal.

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

(B.P. Routray)
Judge

M.K.Panda