

IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA No.66 of 2021

MACA Nos.66 & 74 of 2021

***Divisional Manager, The New India
Assurance Company Ltd.***

(In MACA No.66/2021)

Chhabilata Panda

(In MACA No.74/2021)

.... Appellants

Mr. Somnath. Roy, Advocate (in MACA No.66/2021)

Mr. P.K. Mishra, Advocate (in MACA No.74/2021)

-versus-

Chhabilata Panda and Another ***(In MACA No.66/2021)***

Gouri Sankar Mohapatra and Anr. ***(In MACA No.74/2021)***

.... Respondents

Mr. P.K. Mishra, counsel for Respondent No.1 &
Mr. B. Singh, counsel for Respondent No.3
(in MACA No.66/2021)

Mr. Somnath Roy, counsel for Respondent No.2 &
Mr. B. Singh, counsel for Respondent No.3
(in MACA No.74/2021)

CORAM:

SHRI JUSTICE B. P. ROUTRAY

ORDER

29.3.2022

Order No.

07. 1. Heard Mr. S. Roy, learned counsel for the insurer, Mr. P.K. Mishra, learned counsel for widow of deceased and Mr. B. Singh, learned counsel for mother of the deceased.

2. Both these appeals have been filed challenging the judgment dated 25th November, 2020 of learned 1st MACT, Cuttack passed in MAC Case No.591 of 2015 wherein compensation to the tune of Rs.31,24,204/- along with interest @ 6% per annum from the date of filing of the claim application, i.e. 31st August, 2015 has been granted on account of death of deceased namely Prahallad Panda in the motor vehicular accident dated 20th June, 2015.

3. MACA No.66 of 2021 has been preferred by the insurer and MACA No.74 of 2021 has been preferred by the wife of the deceased.

4. It is submitted on behalf of the insurer that the offending vehicle in question, i.e. car bearing registration number OR 02 V 7209 has been implanted though was not involved in the accident. In support of the said contention it is submitted that the F.I.R. was lodged after nine days of occurrence. This submission advanced on behalf of the insurer is found irrelevant for the issue since no connection in this regard was brought on record nor any evidence was led for the same before the Tribunal.

5. Mr. Roy, learned counsel for the Appellant further submits that, since the copy of Driving License of the driver of the offending vehicle was extracted for 32 times, it gives the inference that the driver is involved in 32 accidental claim cases. Such a presumption drawn by the learned counsel for the insurer is not only without any statutory support but also appears to be a superficial contention which does not need any reason to reject. As such, no answer is required to be recorded for rejection of such contention.

6. Next, considering the grounds of challenge advanced by all the parties with regard to the quantum of compensation, a reduced compensation of Rs.27,00,000/- along with interest @ 6% per annum is proposed to the parties in course of hearing. This is agreed by Mr. Mishra as well as Mr. Singh, learned counsels appearing for the widow wife and mother of the deceased respectively. As such the amount is fixed to the above extent.

7. Mr. Mishra and Mr. Singh further agrees to the extent that out of the entire award amount, 20% (twenty percentum) shall be paid to the mother of the deceased and rest 80% shall be disbursed in favour of the widow of the deceased.

8. In the result, both the appeals are disposed of with a direction to the insurer – New India Assurance Company Ltd. to deposit the reduced compensation amount of Rs.27,00,000/- (twenty-seven lakhs) before the tribunal along with interest @ 6% per annum from the date of filing of the claim application, i.e. 31st August, 2015 within a period of two months from today; where-after the same shall be disbursed in favour of the claimants and the tribunal is at liberty to fix any further condition for disbursal of the amount, if deems necessary. It goes without saying that the penal interest of 12% is waived.

9. The statutory deposit made by the insurer – Appellant in MACA No.66 of 2021 before this court along with accrued interest be refunded on proper application and on production of proof of deposit of the awarded amount before the tribunal.

10. Mr. Singh submits that in view of the present order, the mother of the deceased does not want to proceed with MAC No.168 of 2017 now pending before the 1st MACT, Jajpur. The said case be dropped on an application made to that effect by any of the parties.

11. With the above observations and directions both the appeals are disposed of.

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

M.K.Panda



(B.P. Routray)
Judge