

IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA No. 868 of 2014

Divisional Manager, New Appellant
India Insurance Co., Ltd.

-versus-

Chumanlal Bag & Others Respondents

CORAM:
JUSTICE BIRAJA PRASANNA SATAPATHY

ORDER
29.03.2022

Order
No.

09. **1.** This matter is taken up through Hybrid mode.
- 2.** Heard Mr. A.K.Nath, learned counsel for the Appellant-Company and Mr. A.K.Sahoo, learned counsel for the Respondents-Claimants.
- 3.** This appeal has been filed challenging the judgment dated 29.03.2014 passed by the learned First M.A.C.T-cum-District Judge, Nuapada in M.A.C Case No.29 of 2008, wherein the learned Tribunal directed for payment of compensation of Rs.3,68,000/- in favour of the Claimants-

Respondents along with interest @ 10% per annum from the date of filing of the application till its realization.

4. It is seriously argued by Mr. Nath, learned counsel for the Appellant that even though the learned Tribunal vide the impugned judgment directed for payment of the aforesaid compensation amount proportionately by the appellant-company and Respondent No.8-Company, but the appellant-Company is no way responsible for being saddled with 50% of the award as the offending vehicle was insured with the Respondent No.8-Company.

5. Per contra, Mr. Sahoo, learned counsel for the Claimants-Respondents submitted that because of the head on collision in between the Tata Sumo Taxi bearing Registration No.CG-04-0932 and a Truck bearing Registration No.CG-04-CW-3571 on 6.6.2008, the deceased succumbed to the injury and accordingly the claim petition was filed.

6. Therefore, taking into account the nature of incident causing the death, the learned Tribunal rightly saddled the compensation to be paid proportionately by the appellant-company and the Respondent No.8-Company. While submitting so

Mr. Sahoo, learned counsel for the Respondents prayed for dismissal of the appeal.

7. Having heard learned counsel for the Parties and after going through the materials available on record, this Court comes to the conclusion that the learned Tribunal has rightly saddled the compensation amount to be paid proportionately by both the Appellant-Company and Respondent No.8-Company.

8. But taking into account the submission made by Mr. Nath, learned counsel for the Appellant that while allowing the claim at Rs.3,68,000/-, the learned Tribunal allowed interest @ 10% per annum from the date of filing of the claim petition till its realization, the said direction to pay interest @ 10% per annum is not only on the higher side, but also not in accordance with the prevailing interest rate.

9. Taking such submission of Mr. Nath into account, this Court when proposed to reduce the rate of interest from 10% to 6% per annum by keeping intact the compensation at Rs.3,68,000/-, Mr. Sahoo, learned counsel appearing for the Claimant-Respondents accepted the view of this court.

10. Mr. Nath, learned counsel appearing for the Appellant left the aforesaid view to the discretion of this Court.

11. In view of the stand taken by the learned counsel for both the Parties, this Court feels it deem and proper to direct the Appellant-Company and Respondent No.8-Company to pay the compensation amount of Rs.3,68,000/- with interest @ 6% per annum from the date of the filing of the claim application till its payment within a period of eight weeks.

12. It is observed that only after payment of the proportionate amount as directed above, the Appellant-Company will be permitted to take refund of the security deposit from the Registry of this Court along with accrued interest on proper identification.

13. With the aforesaid observation and direction, the MACA stands disposed of.

(Biraja Prasanna Satapathy)
Judge

Subrat