IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA No.112 of 2019

Legal Manager, M/s. ICICI Lombard General Insurance Company Ltd. .... ***Appellant***

Mr. G.P. Dutta, Advocate

-versus-

Smt. Santilata Behera and Others .... ***Respondents***

Mr. B. Singh, counsel for Respondents 1-3

CORAM:
SHRI JUSTICE B. P. ROUTRAY

ORDER
28.3.2022

Order No.

06. 1. Heard Mr. G.P. Dutta, learned counsel for the insurer – Appellant and Mr. B. Singh, learned counsel for claimant – Respondents.

2. Present appeal by the insurer has been filed challenging the judgment dated 17th December, 2018 of learned MACT, Balasore passed in MAC No.103 of 2015 wherein compensation to the tune of Rs.4,82,000/- along with interest @ 7.5% per annum from the date of filing of the claim application, i.e. 11th March, 2015 has been granted on account of death of the deceased in the motor vehicular accident dated 8th January, 2015.

3. Mr. Dutta contends on behalf of the Appellant that though the offending vehicle was not involved in the accident but subsequently planted to manage compensation.

4. Upon examination of the said contention of the Appellant it is seen from the record that this plea of the insurer was rejected by the Tribunal based on the evidence of the investigating officer, the witness to inquest and the evidence of eye witness. A thorough examination of evidence of those witnesses justifies the claim of the Appellant and no fault is seen in the approach of learned Tribunal in rejecting the said contention of the insurer regarding involvement of the offending vehicle, i.e. OD 01 F 6315.

5. With regard to quantum of compensation it is contended on behalf of the Appellant that despite no documentary proof was adduced on record in support of the income of the deceased, the learned Tribunal took it at Rs.6000/- per month. As per the submission of the Appellant it should not exceed Rs.4,500/- based on the daily rate of wages prevalent during the year 2015.

6. Considering the grounds of challenge advanced in respect of quantum of compensation, a reduced compensation of Rs.4,50,000/- along with interest @ 6% per annum is proposed to the parties in course of hearing. This is agreed by Mr. Singh, learned counsel for the claimants and Mr. Dutta, learned counsel for the insurer leaves it to the discretion of the Court. As such the amount is fixed to the above extent.

7. In the result the appeal is disposed of with a direction to the insurer - Appellant to deposit the reduced compensation of Rs.4,50,000/- (four lakh fifty thousand) before the tribunal along with interest @ 6% per annum from the date of filing of the claim application, i.e. 11th March, 2015 within a period of two months from

today; where-after the same shall be disbursed in favour of the claimants on such terms and proportion to be fixed by the learned Tribunal.

8. The statutory deposit made by the 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.

9. The appeal is disposed of.

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

(B.P. Routray)
Judge

M.K.Panda