

IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA No.73 of 2021

Benga Parida and others

.... ***Appellants***
Mr.S.B.Das, Advocate

-versus-

Kalandi Charan Das and another

.... ***Respondents***
Mr.G.P.Dutta, Advocate for Respondent No.2

CORAM:
JUSTICE B. P. ROUTRAY

ORDER
28.07.2022

Order No.

05.

1. The matter is taken up through Hybrid mode.
2. Heard Mr.Das, learned counsel for the Appellants-claimants and Mr.Dutta, learned counsel for Insurer-Respondent No.2.
3. Present appeal by the Appellants is against the judgment dated 19th November, 2020 of the 1st Addl. District-cum-1st M.A.C.T., Cuttack in MAC Case No.423 of 2017, wherein compensation to the tune of Rs.13,24,000/- has been granted along with interest @6% per annum with effect from the date of filing of the claim application on account of death of the deceased in the motor vehicular accident on 29th March, 2017.
4. It is submitted on behalf of the Appellants that despite original D.L. of the deceased has been marked in evidence under Exhibit-10, the tribunal did not accept the claim of the applicants

regarding the profession of the deceased as a driver, but fixed his income at Rs.6,000/- per month counting him as a daily wage labourer.

5. Upon hearing Mr.Dutta and on perusal of copy of Exhibit-10 as produced by Mr.Dutta in course of hearing, it reveals that as per the driving license, the deceased was authorized to drive LMV and Transport vehicle. In such view of the matter, when the D.L. of the deceased has been produced in support of their contention that the deceased was a driver by profession and earning Rs.15,000/- per month, the approach of the tribunal to disbelieve the same is not found proper.

6. On the other hand, there was no rebuttal evidence adduced from the side of the insurer to reject such contention of the claimants. Thus, the contention of the claimants is accepted that the deceased was a driver by profession, but their claim to the effect that the he was earning Rs.15,000/- cannot be believed in absence of any specific material to that effect. However, considering the normal remuneration paid in general to a professional driver of LMV, the income of the deceased can be taken at Rs.8,000/- per month in this case. Accordingly, the computation of just compensation is enhanced by Rs.3,75,000/- (approximately). Further, the claimants are found entitled interest @6% per annum on the same.

7. Thus, taking all such factors into consideration, the Insurer-Respondent No.2 is directed to pay a further consolidated sum of Rs.4,00,000/-(four lakhs) to the claimants-Appellants within a period of two months from today by depositing the same

before the tribunal. Further, the tribunal is at liberty to direct for such proportion of the amount to be kept in fixed deposit in his discretion.

8. With the aforesaid direction, the appeal is disposed of.

9. Urgent certified copy of this order be granted on proper application.

(B.P. Routray)
Judge

C.R.Biswal

