IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA No.753 of 2019 & MACA No.135 of 2019

In MACA No.753 of 2019

Divisional Manager, New India Assurance Co. Ltd.	....	***Appellant***

Mr. P.K. Panda, Advocate

-versus-

Sanjukta Das and others	....	***Respondents***

Mr. S.B. Das, Advocate for Respondent Nos.1, 2, 4, 5 & 6

In MACA No.135 of 2019

Sajukta Das and others	....	***Appellants***

Mr. S.B. Das, Advocate

-versus-

Anusaya Dalai and another	....	***Respondents***

CORAM:
JUSTICE B. P. ROUTRAY

ORDER
03.01.2022

Order No.

MACA Nos.753 & 135 of 2019

07. 1. Heard Mr. P.K. Panda, learned counsel for the Insurance Company and Mr. S.B. Das, learned counsel for the claimants.

2. As submitted by both the parties, the LRs of deceased Respondent No.3 in MACA No.753 of 2019 are already on record and as such no further substitution is required.

3. Both the appeals being arise out of the same judgment dated 05.12.2018 of the learned 4th MACT, Cuttack are heard together and disposed of by this common order.

4. MACA No.753 of 2019 has been filed by the Insurance Company challenging the award and MACA No.135 of 2019 has been preferred by the claimants praying for enhancement of the compensation amount.

5. It is submitted by the insurer that the determination of the monthly income at Rs.17,000/- of the deceased is erroneous as he cannot have so many multiple sources of income and the oral evidence adduced in that respect is unacceptable.

6. On the other hand, it is submitted by the claimants that the learned Tribunal has not accounted the compensation towards loss of consortium and the same should be added in the compensation.

7. Having heard both parties, it is seen from the impugned judgment that the learned Tribunal considering the oral evidences brought on record on behalf of the claimants and relying on the ITR of the deceased under Ext.15 has calculated Rs.17,000/- as monthly income of the deceased. Ext.15 and its contents are not disputed by the insurer. The oral evidences stated by different witnesses are found supporting to the said amount of income of the deceased. As such, no illegality is found in the approach of the learned Tribunal in determining the monthly income of the deceased and to proceed in computing just compensation. Therefore, no merit is found in the contention of the insurer to reduce the compensation amount.

8. On the other hand, to examine the submissions made on behalf of the claimants that no amount towards loss of consortium has

been added by the learned Tribunal to the compensation amount, it is seen that the learned Tribunal while proceeding for computation of just compensation applied multiplier '16' and has granted future prospects also. Admittedly, the deceased was a bachelor and the parents along-with other dependants have claimed compensation.

9. Considering the same, a further consolidated sum of Rs.50,000/- is granted in favour of the claimants towards filial consortium to Appellant Nos.1 & 2 in MACA No.135 of 2019.

10. In the result, MACA No.753 of 2019 is dismissed, and in MACA No.135 of 2019 the Respondent-insurer are directed to pay a further consolidated sum of Rs.50,000/- (rupees fifty thousand) to the claimants-Appellant Nos.1 & 2 within a period of eight weeks from today.

11. The statutory deposit made before this Court in MACA No.753 of 2019 with accrued interest thereon shall be refunded to the Appellant-Insurance Company on proper application.

12. Both the appeals are disposed of.

13. An urgent certified copy of this order be granted on proper application.

(B.P. Routray)
Judge

B.K. Barik