

IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA No.138 of 2018

Raju Kumar Naik @ Rajkumar Appellant

-versus-

Bijay Ray & Anr. Respondents

**CORAM:
JUSTICE BIRAJA PRASANNA SATAPATHY**

**ORDER
20.06.2022**

Order No

- 07.** 1. This matter is taken up through Hybrid Arrangement (Virtual/Physical) Mode.
2. Heard Mr. Patitpaban Mishra, learned counsel for the Appellant and Mr. G.P. Dutta and associates appearing on behalf of Respondent No. 2.
3. This appeal has been filed seeking enhancement of the award passed by the learned Addl. District Judge –cum- 3rd MACT, Deogarh on 27.10.2017 in MAC Case No.01 of 2010-17 of 2017.
4. It is submitted by the learned counsel for the Appellant that vide the aforesaid award the learned Tribunal while disposing the claim directed the Respondent No.2-Company to pay compensation amount of Rs.1,75,500/- (Rs. One lakh seventy five thousand five hundred) along with interest @ 6% per annum payable from the date of filing of the application till its realization, but learned Tribunal while passing the award has not passed any award towards

pain and suffering of the legal heirs of the deceased and towards future prospect.

5. It is also submitted that without having any evidence laid by the Respondent Nos.1 and 2, learned Tribunal wrongly deducted 20% towards contributory negligence. Accordingly, it is submitted that in view of such irregularity committed by the learned Tribunal, the award passed on 27.10.2017 needs enhancement.

6. Mr. Dutta, learned counsel appearing for the Respondent-Company also fairly submitted that since the Company did not appear before the learned Tribunal, the Company was set ex parte and no evidence accordingly could be laid. It is submitted that no award has been passed towards pain and suffering and towards future prospect.

7. Having heard learned counsel for the Parties, this Court when came to a conclusion that the award passed by the learned Tribunal needs enhancement and the Appellant will be entitled to get further consolidated amount of Rs.75,000/- (Rs. Seventy five thousand), Mr. Mishra, learned counsel appearing for the Appellant supported the view of this Court. Mr. Dutta on the other hand left the same to the discretion of this Court. In view of such stand taken by the learned counsel appearing for both the Parties, this Court deems it fit and proper to enhance the award amount by a further consolidated amount of Rs.75,000/- (Rs. Seventy five thousand).

8. It is accordingly directed that the award passed by the learned Tribunal on 27.10.2017 as well as the amount enhanced by this Court, be deposited by the Respondent-Company before the learned Tribunal within a period of eight (8) weeks from the date of receipt of the certified copy of this Order. On such deposit of the amount

before the learned Tribunal, the amount shall be disbursed in favour of the Appellant in terms of the order passed on 27.10.2017.

9. The appeal is accordingly disposed of.

(Biraja Prasanna Satapathy)
Judge

Sneha

