IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA No.147 of 2018

General Manager, National Insurance Company Ltd. .... ***Appellant***

Mr. P.K. Mohanty, Advocate

-versus-

Smt. Sabitabala Sahbu and others .... ***Respondents***

Mr. J. Sahoo, Advocate on behalf of Mr. A.K. Sahoo, Advocate for Respondent Nos.1 & 2

CORAM:
JUSTICE B. P. ROUTRAY

ORDER
07.12.2022

Order No.	
05.	1. Heard Mr. P.K. Mohanty, learned counsel for the Appellant-Insurance Company and Mr. J. Sahoo, learned counsel, on behalf of Mr. A.K. Sahoo, learned counsel for the Respondent Nos.1 & 2-claimants.

2. Present appeal by the insurer is directed against the judgment dated 28.07.2017 of learned 1st M.A.C.T., Deogarh in M.A.C. Case No.24 of 2015, wherein compensation to the tune of Rs.28,62,032/- has been granted along with interest @6% per annum to the claimants from the date of filing of the claim application, i.e. 25.06.2015 on account of death of the deceased in the motor vehicular accident dated 04.05.2015.

3. Mr. P.K. Mohanty, learned counsel for the Appellant-Insurance Company mainly contends that the offending vehicle, i.e. Truck bearing Registration No.WB-51-A-6730 was without valid permit

on the date of accident and it did not have the permit to ply in State of Orissa.

4. The aforesaid contention of Mr. Mohanty is found without merit. It is for the reason that no evidence has been adduced in this regard by the insurer and such contention seems to be a presumptive one. Secondly, the Police have never said anything in regard to invalid permit of the offending vehicle in their investigation report.

5. So far as the amount of compensation is concerned, Mr. Mohanty challenges the same disputing the applicable multiplier. It is seen that the date of birth of the deceased as per his service record is 13.2.1970 and the accident took place on 4.5.2015. Therefore, admittedly the deceased was more than 45 years on the date of accident and as such, the appropriate multiplier would be '13' in view of the settled principle propounded in the case of ***Sarla Verma (Smt.) and others vs. Delhi Transport Corporation and another, (2009) 6 SCC 121***. Considering this aspect and without disturbing any other finding of learned Tribunal, the loss of dependency is calculated at Rs.25,64,744/-. Adding Rs.40,000/- each to the widow and minor daughter towards spousal consortium and parental consortium respectively, and further adding Rs.30,000/- towards general damages, the compensation amount becomes Rs.26,74,744/-.

6. In the result, the Appellant – Insurance Company is directed to deposit the modified compensation of Rs.26,74,744/- (rupees twenty-six lakhs seventy-four thousand seven hundred forty-four)

before the Tribunal along with interest @6% per annum from the date of filing of the claim application, i.e. 25.06.2015 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 Tribunal.

7. On deposit of the award amount before the learned Tribunal and filing of a receipt evidencing the deposit with a refund application before this Court, the statutory deposit made before this Court with accrued interest thereon shall be refunded to the Appellant-Insurance Company.

8. The MACA is disposed of with aforesaid directions.

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

(B.P. Routray)
Judge

HIGH COURT ORISSA

B.K. Barik