

IN THE HIGH COURT OF ORISSA AT CUTTACK
MACA No.334 OF 2018

From the Judgment dated 13.10.017 passed by the learned District Judge-cum-1st M.A.C.T, Nayagarh in M.A.C. No.103/108 of 2015.

**D.M. National Insurance
Co. Ltd., represented by
Manager, Legal Cell,
Cuttack**

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Appellant

-versus-

**Abhimanyu Nayak &
Others**

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Respondents

For Appellant : M/s. M. Sinha, Advocate

For Respondents : M/s. S.K. Pradhan-3, Advocate
(for Respondent No.1 & 2)

PRESENT:

THE HON'BLE JUSTICE BIRAJA PRASANNA SATAPATHY

Date of Hearing: 06.05.2022 & Date of Order:17.5.2022

Biraja Prasanna Satapathy, J.

1. Heard Mr. M. Sinha, learned counsel for the appellant and Mr. S.K. Pradhan, learned counsel appearing for the claimants-respondent Nos.1 & 2

2. This appeal has been filed by the appellant-company challenging the judgment date 13.10.2017 passed in MAC No.103/108 of 2015 by the learned

District Judge-cum- 1st M.A.C.T, Nayagarh. Learned Tribunal vide the said judgment while allowing the claim of the claimants-respondents directed the appellant-company to pay compensation of Rs.19,41,238/- along with interest @7% per annum payable from the date of application i.e. 29.9.2015 till its realization.

3. Mr. Sinha, learned counsel appearing for the appellant-company submitted that learned Tribunal while awarding the compensation as indicated above never took into consideration the objection raised by the appellant-company with regard to the income of the deceased and the objection with regard to deduction of 1/5th towards personal expenditure of the deceased, even though the deceased was a bachelor and 50% should have been deducted towards personal expenditure. Accordingly, Mr. Sinha, learned counsel appearing for the appellant-company prayed for interference of this Court with regard to the quantum of the compensation allowed in favour of the claimants-respondents. It is also submitted that the interest awarded by the learned Tribunal @7% per annum is also on the higher side.

4. Mr. S.K. Pradhan, learned counsel appearing for the claimants-respondents though on the other hand submitted that the learned Tribunal has rightly assessed the monthly income as well as the compensation, but could not dispute the submission made by the learned counsel for the appellants-company regarding deduction towards personal expenditure.

5. Heard learned counsel for the parties at length. Perused the materials available on record.

6. Taking into account the grounds raised by the appellant-company in the memo of appeal, this Court after having a thread-bare discussion of the same when came to a finding that the claimants-respondents are entitled to get compensation of Rs.18,00,000/- with interest @6% per annum from the date of application till its realization. Mr. Pradhan, learned counsel for the claimants-respondents supported the said view of this Court. Mr. Sinha, learned counsel for the appellant-company, on the other hand, left the same to the discretion of the Court.

7. In view of such stand taken by the learned counsel for both the parties, while interfering with the impugned

judgment, this Court held that the claimants-respondents are entitled to get compensation of Rs.18,00,000/- with interest @6% per annum payable from the date of application i.e. 29.9.2015 till its realization. Accordingly, this Court directs the appellant-company to pay the aforesaid compensation amount of Rs.18,00,000/- along with interest payable @6% per annum from the date of application i.e.29.9.2015 till its realization within a period of eight weeks from the date of receipt of this order.

8. It is further directed that the appellant-company shall deposit the aforesaid compensation amount along with interest, so assessed by this Court, before the learned Tribunal with the time indicated hereinabove. It is also observed that on such deposit of the compensation amount along with interest, learned Tribunal shall disburse the same in favour of the claimants-respondents proportionately in terms of the earlier order passed on 13.10.2017.

9. It is further observed that if the appellant-company fails to deposit the compensation amount along with interest as directed hereinabove with the time

stipulated, the claimants-respondents will be entitled to get interest @7% per annum for the period starting from expiry of the eight weeks till the date of payment on the compensation amount of Rs.18,00,000/-.

10. It is further observed that only after deposit of the compensation amount along with interest so assessed by this Court, the appellant-company shall be permitted to take refund of the statutory deposit along with accrued interest from the Registry of this Court on proper identification.

11. The appeal is accordingly disposed of with the aforesaid observations and directions.

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B.P. Satapathy, J.

Orissa High Court, Cuttack
Dated the 17th May, 2022/sangita