

IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA No.353 of 2018

Pravash Chandra Rout

....

Appellant

Mr. D.C. Dey, Advocate

-versus-

Mr. Rajesh Nayak and another

....

Respondents

Mr. A.A. Khan, Advocate for Respondent No.2

CORAM:

JUSTICE B. P. ROUTRAY

ORDER

13.12.2022

Order No.

08.

1. Heard Mr. D.C. Dey, learned counsel for the Appellant-claimant as well as Mr. A.A. Khan, learned counsel for the Respondent No.2-Insurance Company.

2. Present appeal by the Appellant-claimant is directed against the common judgment dated 26.12.2017 of learned 4th MACT, Cuttack in M.A.C. No.291 of 2013/140 of 2016, wherein the learned Tribunal has granted compensation to the tune of Rs.11,64,000/- along with interest @6% per annum to the claimant from the date of filing of the claim application i.e. 17.05.2013 on account of death of the deceased in the motor vehicular accident dated 18.04.2013.

3. Mr. Dey, learned counsel for the Appellant-claimant submits that the Tribunal without considering the educational qualification and background of the deceased treated him as a

skilled labourer to fix his notional income at Rs.7500/- per month, which is erroneous.

4. Mr. Khan, learned counsel for the Respondent No.2-insurer on the other hand submits that the deceased was a student on the date of accident and therefore, fixation of his notional income at such rate by the learned Tribunal is justified and requires no interference.

5. It is seen that the deceased was aged about 22 years and prosecuting his studies in Bachelor of Engineering in Computer Science at Oman. Therefore, considering his qualification, background and his future prospects, in the opinion of this Court his notional income would be fixed at Rs.10,000/- per month. In this regard, support is taken from the decisions of the Supreme Court in *(2020) 4 SCC 413 (Kajal -vs- Jagdish Chand and others)* and *2021 SCC Online SC 1083 (Meena Pawaia -vs- Ashraf Ali and others)*.

6. Admittedly no challenge is made by the insurer either to its liability or the negligence of the vehicle, and it is submitted that in the meantime, the amount granted by the learned Tribunal has been satisfied.

7. Thus taking the notional monthly income of the deceased at Rs.10,000/- and adding thereto future prospects to the extent of 40%, a further consolidated sum of Rs.6,00,000/- (rupees six lakhs) is proposed to the parties in course of hearing. Mr. D.C. Dey, learned counsel for the claimant-Appellant agrees to the

same and Mr. A.A. Khan, learned counsel for Respondent No.2- Insurance Company leaves it to the discretion of the Court. The compensation amount is accordingly fixed to that extent.

8. The Insurance Company is directed to deposit the further consolidated sum of Rs.6,00,000/- before the Tribunal within a period of two months from today; where-after the same shall be disbursed to the claimant on such terms and proportions to be decided by the learned Tribunal.

9. The MACA is disposed of.

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

(**B.P. Routray**)
Judge

