

IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA No.354 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.

09.

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 the learned 4th MACT, Cuttack in M.A.C. No.292 of 2013/139 of 2016, wherein the learned Tribunal has granted compensation to the tune of Rs.8,01,250/- 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. D.C. Dey, learned counsel contends for the Appellant-claimant that the deceased was a professional photographer and earning Rs.1,00,000/- per month at Oman. Therefore, the

assessment of the Tribunal in fixing her monthly income at Rs.7500/- only, as a highly skilled labourer, is erroneous.

4. Mr. Khan, learned counsel for Respondent No.2-insurer on the other hand submits that the assessment of the Tribunal at the rate prevalent for highly skilled labourer, in absence of any proof regarding income of the deceased, is justified and therefore, does not require any interference.

5. It is seen that the deceased was a woman aged about 47 years on the date of accident. She passed Bachelor of Arts from Sambalpur University in the year 1989 and thereafter settled at Oman with her husband and son. She has taken training on photography as per Ext.14 series and also given contract of photography and videography for private organizations.

6. Considering all such factors as well as educational background of the deceased, in the opinion of this Court, an amount of Rs.10,000/- would be appropriate as her monthly income.

7. 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.

8. Thus, taking the notional monthly income of the deceased at Rs.10,000/- and adding thereto future prospects to the extent of 25%, 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.

9. 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.

10. The MACA is disposed of.

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

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

