

**IN THE HIGH COURT OF ORISSA AT CUTTACK**  
**MACA No.81 of 2022**

***Branch Manager, National Insurance  
Company Ltd., Balangir***

....

***Appellant***

Mr. G.P. Dutta, Advocate

-versus-

***Brundabati Khamari and Others***

....

***Respondents***

Mr. J. Sahu, counsel for Respondents 1-5

**CORAM:**  
**SHRI JUSTICE B. P. ROUTRAY**

**ORDER**  
**13.12.2022**

**Order No.**

- 03.
1. The matter is taken up through hybrid mode.
  2. Heard Mr. G. P. Dutta, learned counsel for the insurer – Appellant and Mr. J. Sahu, learned counsel for claimant – Respondents 1 to 5.
  3. Present appeal by the insurer is against the impugned judgment dated 28<sup>th</sup> December, 2021 of the learned 5<sup>th</sup> MACT, Balangir passed in MAC No.83/27/28 of 2016/18/21, wherein compensation to the tune of Rs.26,32,500/- along with interest @ 6% per annum from the date of filing of the claim application, i.e. 30<sup>th</sup> August, 2016 has been granted on account of death of deceased Tankadhar Khamaria in the motor vehicular accident dated 16<sup>th</sup> May, 2016.
  4. Upon hearing both parties and considering all such grounds of challenge, a modified compensation of Rs.21,50,000/- along with 6% interest is proposed to the parties. This is agreed by Mr. Sahu, learned counsel for the claimant – Respondents and Mr. Dutta, learned

counsel for the insurer leaves it to the discretion of the court. Accordingly the compensation amount is fixed to the said extent.

5. In the result, the appeal is disposed of with a direction to the Appellant – insurer to deposit the modified compensation amount of Rs.21,50,000/- (twenty-one lakhs fifty thousand) before the tribunal along with interest @ 6% per annum from the date of filing of the claim application, i.e. 30<sup>th</sup> August, 2016, within a period of two months from today; where-after the same shall be disbursed in favour of the claimant – Respondents on such terms and proportion to be decided by the learned tribunal. However, as prayed on behalf of the Appellant, it is open for it to seek such right of recovery, if recoverable, from the owner of the vehicle in accordance with law after affording opportunity of hearing to the owner.

6. The statutory deposit made by the insurer - Appellant before this court along with accrued interest be refunded to the Appellant on proper application and on production of proof of deposit of the awarded amount before the tribunal.

7. An urgent certified copy of this order be issued as per rules.

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