

IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA No.169 of 2019

National Insurance Company Ltd. *Appellant*
Mr. R.R. Mohanty, Advocate
-versus-
Ranjulata Mandal and others *Respondents*
Mr. B. Singh, Advocate for Respondent Nos.1 to 3

CORAM:
JUSTICE B. P. ROUTRAY

ORDER
06.12.2022

Order No.

08.

1. Heard Mr. R.R. Mohanty, learned counsel for the Appellant-Insurance Company and Mr. B. Singh, learned counsel for the Respondent Nos.1 to 3.

2. Present appeal by the insurer is directed against the judgment dated 24.09.2018 of learned 3rd M.A.C.T., Balasore in M.A.C. Case No.1624/2014, wherein compensation to the tune of Rs.7,90,000/- has been granted along with interest @7.5% per annum to the claimants from the date of filing of the claim application, i.e.8.9.2014 on account of death of the deceased in the motor vehicular accident dated 01.06.2013.

3. The main contention raised by the Appellant is with regard to negligence aspect. It is submitted that the driver of the offending vehicle, i.e. motorcycle bearing Registration No.OR-01-E-8555 was not found negligent in course of police investigation and accordingly the final form was submitted stating no clue. But the

learned Tribunal based upon the order of cognizance taken by the learned Magistrate in the criminal case has fixed negligence on the driver. According to Mr. Mohanty, learned counsel for the Appellant, such conclusion arrived by the Tribunal is erroneous. It is further submitted that two petitions filed by the Appellant to examine the Police Investigating Officer and the National Highway Authority were also left unnoticed by the learned Tribunal.

4. It is seen that the fact of taking of cognizance against the driver of the offending motorcycle for commission of offences under Sections 279/304-A, I.P.C., upon protest of the informant, is left undisputed. Therefore, no merit is seen in the submission of the Appellant either to find fault in the order of the learned Tribunal fixing negligence on the accused-driver or to examine the I.O. in support of such stand. Further, the I.O. has nothing to depose as he has no direct knowledge about the cause of accident. The other petition stated to have been filed praying to examine the National Highway Authority is of course liable for rejection on the ground that the same is non-specific. So, in either way, the Appellant has no merit in its contention and the finding of the learned Tribunal regarding fixation of negligence is confirmed.

5. With regard to the quantum of compensation, no apparent fault is seen in the approach of the Tribunal. Learned Tribunal has proceeded taking Rs.5000/- as monthly income of the deceased and applied the settled procedure to determine compensation amount. Therefore, no more reason is seen to interfere with the

impugned award. However, the rate of interest is reduced to 6% against the direction of the learned Tribunal for 7.5%.

6. In the result, the appeal is disposed of with a direction to the Appellant-Insurance Company to deposit the entire compensation amount along with interest @ 6% per annum before the learned Tribunal as per its direction within a period of two months from today; where-after the same shall be disbursed in favour of the claimants-Respondent Nos.1 to 3 on such terms and proportion to be decided by the learned 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.

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

(B.P. Routray)
Judge