

IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA No.95 of 2020

M/s.Royal Sundaram Alliance Insurance Company Limited ***Appellant***

Mr. A.A. Khan, Advocate

-versus-

Kuni Behera and others ***Respondents***

Mr. P.K. Mishra, Advocate for Respondent Nos.2 & 3

CORAM:

JUSTICE B. P. ROUTRAY

ORDER
07.03.2022

Order No.

03.

1. Heard Mr. A.A. Khan, learned counsel for the Appellant-Insurance Company as well as Mr. P.K. Mishra, learned counsel for the Respondent Nos.2 & 3-claimants.

2. Present appeal by the insurer is directed against award dated 27.11.2019 of the learned 3rd MACT, Jagatsinghpur in MAC No.354 of 2010 wherein the learned Tribunal has granted compensation of Rs.12,08,963/- along with 7% interest per annum to the claimants from the date of filing of the application i.e. 15.11.2010 on account of death of the deceased in the motor vehicular accident dated 3.9.2010.

3. It is submitted on behalf of the Appellant that the offending vehicle, i.e. Truck bearing Registration No.OR-09-C-6731 is not involved in the accident, but has been implanted to manage the

compensation. To support the same, it is submitted that there is delay of around two months in lodging the FIR.

4. Mr. P.K. Mishra, learned counsel for the claimants-Respondent Nos.2 & 3 submits in reply that though it is true that FIR was lodged on 1.11.2010, but the same does not mean to exclude the involvement of the offending vehicle in the accident and apart from that, Police has submitted the charge-sheet against the driver and the owner has admitted the accident before the Tribunal.

5. Having heard both the parties and upon perusal of the impugned judgment, it reveals that the learned Tribunal has rightly discarded the contention of the insurer regard to involvement of the vehicle in the accident keeping in view the admission of the owner as well as the Police investigation report. Admittedly the insurer has not adduced any evidence to rebut such contention of the claimants.

6. Next coming to the question of quantum of compensation, it is submitted on behalf of the Appellant that the Tribunal ignoring the actual rate of minimum wages prevailed at the time of accident, has counted higher rate to the benefit of the claimants. Upon perusal of the impugned judgment, it is seen that learned Tribunal accepting vocation of the deceased as a mason has fixed his income at Rs.6,000/- per month. Admittedly as submitted by both parties, the prevalent rate of minimum wages for un-skilled labour was at Rs.90/-, semi-skilled at Rs.103/- and skilled at Rs.116/- in the year 2010. So taking the rate prescribed for skilled labourer, the monthly wages comes to $\text{Rs.}116 \times 30 = \text{Rs.}3480/-$.

7. Keeping this in mind, a reduced compensation of Rs.9,00,000/- (Rupees Nine Lakhs) is proposed to the parties in course of hearing. Mr. P.K. Mishra, learned counsel for the claimants- Respondent Nos.2 & 3 agrees to the same and Mr. A.A. Khan, learned counsel for Appellant-Insurance Company leaves it to the discretion of the Court. The compensation amount is accordingly fixed to that extent. However the rate of interest is reduced to 6%.

8. Accordingly, the Insurance Company is directed to deposit the modified amount of Rs.9,00,000/- (Rupees Nine Lakhs) along with interest @6% per annum from the date of filing of the claim application i.e.15.11.2010 before the learned Tribunal within a period of two months from today; where-after the same shall be disbursed to the claimants on such terms and proportion to be decided by the learned Tribunal.

9. 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-Insurance Company.

10. The MACA is disposed of.

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

(B.P. Routray)
Judge