

IN THE HIGH COURT OF ORISSA AT CUTTACK
MACA No.437 of 2018

The Manager, Legal, M/s.
Cholamandalam M.S. General Insurance Company Ltd. *Appellant*

Mr. A.A. Khan, Advocate

-versus-

Bidyutprava Biswal and Others *Respondents*

Mr. K.C. Nayak, counsel for Respondents 1-4

CORAM:
SHRI JUSTICE B. P. ROUTRAY

ORDER
29.11.2022

Order No.

- 08.
1. The matter is taken up through hybrid mode.
 2. Heard Mr. A.A. Khan, learned counsel for the insurer - Appellant and Mr. K.C. Nayak, learned counsel for the claimant – Respondents 1-4.
 3. Present appeal by the insurer is against the impugned judgment dated 7th February, 2018 of the learned 1st MACT, Cuttack passed in MAC No.276 of 2012, wherein compensation to the tune of Rs.69,78,220/- along with interest @ 6% per annum from the date of filing of the claim application, i.e. 1st May, 2012 has been granted on account of death of deceased Khirod Kumar Biswal in the motor vehicular accident dated 7th January, 2012.
 4. Mr. Khan submits on behalf of the Appellant that the offending vehicle, i.e. auto rickshaw bearing registration number OR 19K 4875 was not involved in the accident but has been implanted to manage compensation amount.

5. The contention of Mr. Khan is found without substance for the reason that the police upon investigation have submitted charge-sheet against the driver of the offending vehicle not only for his involvement in the accident but for his negligent driving also. Secondly, the tribunal has discussed this elaborately in the impugned judgment and no flaw is seen in such approach of the tribunal.

6. With regard to quantum of compensation, considering all such challenges advanced, a reduced compensation of Rs.60,00,000/- with 6% interest is proposed to the parties. This is agreed by Mr. Nayak, learned counsel for the claimant – Respondents and Mr. Khan, learned counsel for the insurer leaves it to the discretion of the court. Accordingly, the compensation amount is fixed to the said extent.

7. In the result the appeal is disposed of with a direction to the insurer – Appellant to deposit the reduced compensation of Rs.60,00,000/- (sixty lakhs) before the tribunal along with interest @ 6% per annum from the date of filing of the claim application, i.e. 1st May, 2012, 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 tribunal. However, the penal interest of 12% is waived.

8. 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.

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

(B.P. Routray)
Judge