IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA No.108 of 2020 & MACA No.726 of 2020

In MACA No.108 of 2020

Monalisa Parida@Patra and another .... ***Appellants***
Mr. D.C. Dey, Advocate

-versus-

M/s.Geekom Logistech Pvt. Ltd. and another .... ***Respondents***
Mr. G.P. Dutta, Advocate for Respondent No.2

In MACA No.726 of 2020

The Divisional Manager (Legal), M/s. Oriental Insurance Co. Ltd. .... ***Appellant***
Mr. G.P. Dutta, Advocate

-versus-

Monalisa Parida@patra and others .... ***Respondents***
Mr. D.C. Dey, Advocate for Respondent Nos.1 & 2

CORAM:
JUSTICE B. P. ROUTRAY

ORDER
07.03.2022

Order No.

I.A. No.1452 of 2020 arising out of MACA No.726 of 2020

04. 1. Heard Mr. D.C. Dey, learned counsel for claimants as well as Mr. G.P. Dutta, learned counsel for the Insurance Company.

2. Upon hearing both parties and considering the grounds mentioned in the petition, the delay in filing the appeal is condoned.

3. I.A. is disposed of.

MACA No.108 of 2020 & MACA No.726 of 2020

4. Both the appeals being arise out of the same judgment are heard together and disposed of by this common order.

5. Since the challenges in both the appeals are with regard to quantum of compensation, no notice on the owner is required to be served.

6. Heard Mr. D.C. Dey, learned counsel for the claimants in both the appeals and Mr. G.P. Dutta, learned counsel for the Insurance Company.

7. Both the appeals are against the common judgment dated 7.1.2020 in MAC Case No.478 of 2016/112 of 2018 of 3rd Additional District Judge-cum-4th M.A.C.T., Cuttack, wherein learned Tribunal has granted compensation of Rs.77,66,000/- along with 6% interest per annum to the claimants from the date of filing of the application i.e.25.07.2016 on account of death of the deceased in the motor vehicular accident dated 16.03.2016.

8. In MACA No.108 of 2020, the claimants are the Appellants, who have prayed for enhancement of the compensation amount. MACA No.726 of 2020 has been filed by the Insurance Company challenging the quantum of compensation.

9. It is submitted by Mr. Dey, learned counsel for the claimants that the Tribunal while determining compensation has ignored the medical expenses and transportation cost of the dead body of the

deceased. As per his submission, this should have been included to grant more compensation.

10. On the other hand, Mr. G.P. Dutta, learned counsel for the insurer submits that the Tribunal has taken the annual income of the deceased at Rs.5,08,460/- based on Form-16 issued by the employer under Ext.22. The conveyance allowance as added in the income should have been excluded. In other words, it is the submission of Mr. Dutta that the employer has committed the mistake by adding conveyance allowance to the income of the deceased in Form-16 which ought to have been deducted by the learned Tribunal while computing the income of the deceased.

11. Having heard both the parties and upon perusal of the impugned judgment, it reveals that learned Tribunal has considered the appointment letter under Ext.18, salary certificates for the months of January, February and March, 2016 under Exts.19 to 21, and Form-16 issued by the employer under Ext.22 for computing income of the deceased. A copy of Ext.22 as produced in course of hearing, reveals that the total amount is counted to Rs.5,45,770/- per annum out of which statutory tax deduction is Rs.27,493/- at source. As per column 11, the total income of the deceased is shown to be Rs.5,08,460/-. Therefore, no fault is seen from the judgment of learned Tribunal in taking the annual income of the deceased at Rs.5,08,460/- which has been rounded to Rs.5,10,000/-.

12. Coming to the other aspects, it is seen that the learned Tribunal has added 40% towards future prospects and also added

other conventional heads in terms of the decision rendered in the case of ***National Insurance Company Limited vs. Pranay Sethi and others, (2017) 16 SCC 680*** to determine the final compensation. No reason is seen to interfere with the same and the total amount of compensation as granted by the learned Tribunal is confirmed.

13. It needs to be mentioned that the prayer for enhancement of compensation by the claimants does merit consideration for the reason that no material evidence in support of the same has been adduced by them except the oral statement of P.W.1. Since learned Tribunal has added conventional heads as per the settled principles, no merit is seen in such contention of the claimants which is rejected accordingly.

14. In the result, both the appeals are dismissed being without merit.

15. The insurer (Appellant in MACA No.726 of 2020 and Respondent No.2 in MACA No.108 of 2020) is directed to deposit the award amount of compensation of Rs.77,66,000/- (rupees seventy-seven lakhs sixty-six thousnad) before the learned Tribunal along with interest @6% per annum from the date of filing of claim application i.e.25.07.2016 within a period of two months from today which shall be the disbursed in favour of the claimants on the same terms and proportion as per the direction of the Tribunal. However, the penal interest @ 12% per annum contained in the direction of the Tribunal is waived.

16. On deposit of the award amount before the learned Tribunal and filing of a receipt evidencing the deposit before this Court with a refund application, the statutory deposit made before this Court with accrued interest thereon shall be refunded to the Appellant-Insurance Company.

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

(B.P. Routray)
Judge

B.K. Barik