

IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA NO.177 OF 2019

From the Judgment/Order dated 29.09.2018 passed by the learned 1st MACT, Mayurbhanj at Baripada in MAC Case No.209/2016.

D.M., United India Insurance Co. Ltd. **:::** **Appellant**

-:: VERSUS ::-

Basanti Deo & Ors. :::: **Respondents**

Appeared in this case by Video Conferencing Mode / Hybrid Mode.

For Appellant :::: Mr. S. Satpathy, Advocate
(for Appellant-Company)

For Respondent :::: Mr. B.B. Singh, Advocate
(for Claimants-Respondents)

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PRESENT :

THE HON'BLE MR. JUSTICE B.P.SATAPATHY

Date of Hearing- 12.07.2022 :: Date of Order- 20.07.2022

B.P.Satapathy, J. This matter is taken up through Hybrid Arrangement (Virtual/Physical) Mode.

2. Heard Mr. Subrat Satpathy, learned counsel appearing for the Appellant-Company and Mr. B.B. Singh, learned counsel appearing for the Claimants-Respondents.

3. This appeal has been filed by the Appellant-Company challenging the Judgment dated 29.09.2018 passed in MAC No. 209/2016 by the learned 1st MACT, Mayurbhanj at Baripada.

4. Mr. Satpathy, learned counsel appearing for the Appellant-Company submitted that learned Tribunal without considering the objection raised by the Appellant-Company assessed the compensation illegally at the higher side and also allowed interest on the higher side i.e. @ 9% per annum from the date of filing of the application till its payment. Mr. Satpathy further submitted that while assessing the compensation learned Tribunal did not appreciate the stand taken by the Appellant-Company towards contributory negligence of the deceased and learned Tribunal also assessed the compensation towards loss of income and future prospect at the higher side. It is also submitted that rate of interest allowed @ 9% per annum is on the higher side as on the relevant time the prevalent rate of interest cannot be taken at 9% per annum.

5. Making all such submission Mr. Satpathy, learned counsel appearing for the Appellant-Company prayed for interference of this Court in the impugned Judgment.

6. Mr. Singh, learned counsel appearing for the Claimants-Respondents on the other hand submitted that the Appellants have

also filed a cross appeal seeking enhancement of the compensation as learned Tribunal while assessing the compensation has not awarded any compensation towards damages and learned Tribunal also calculated compensation wrongly towards future prospect. Accordingly, Mr. Singh submitted that this Court may reconsider the same.

7. Heard, learned counsel for the Parties. Perused the materials available on record. After going through the same this Court when came to a conclusion that the Claimants-Respondents will be entitled to get compensation amount of Rs. 30,00,000/- (Rs. Thirty lakh) with 6% interest per annum payable from the date of application till its payment. Mr. Singh, learned counsel for the Claimants-Respondents supported the said view of this Court. Mr. Satpathy, learned counsel appearing for the Appellant-Company left the same to the discretion of this Court.

8. In view of such stand taken by the learned counsel appearing for the Parties, this Court while disposing the appeal held that the Claimants-Respondents will be entitled to get compensation amount of Rs. 30,00,000/- (Rs. Thirty lakh) along with interest @ 6% per annum payable from the date of application till its realization.

9. While holding so this Court directs the Appellant-Company to deposit the aforesaid compensation amount of Rs. 30,00,000/- (Rs. Thirty lakh) along with interest so directed by the learned Tribunal

before the said Tribunal within a period of eight (8) weeks from the date of receipt of this order. It is directed that on such deposit of the amount by the Appellant-Company learned Tribunal shall do well to disburse the same in favour of the Claimants-Respondents proportionately and in terms of its order dated 29.09.2018.

10. However, it is observed that if the Appellant-Company will fail to deposit the aforesaid compensation amount so assessed by this Court within the period stipulated hereinabove, the compensation amount of Rs.30,00,000/- (Rs. Thirty lakh) will carry interest @ 7% per annum for the period starting from the expiry of the period of eight(8) weeks from the receipt of this order.

11. It is further observed that only after deposit of the entire amount along with interest before the learned Tribunal as directed hereinabove, the Appellant-Company shall be permitted to take refund of the statutory deposit along with accrued interest from the Registry of this Court on proper identification.

12. This appeal is accordingly disposed of with the aforesaid observation and direction.

(Biraja Prasanna Satapathy)
Judge

Orissa High Court, Cuttack
The 20th July, 2022/Sneha