IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA No.109 of 2020

Divisional Manager, Oriental Insurance Company Limited	....	***Appellant***

Mr. A.A. Khan, Advocate

-versus-

Sucharita Mahapatra and others	....	***Respondents***

Mr. P.K. Mishra, Advocate for Respondent Nos.1 & 2

CORAM:
JUSTICE B. P. ROUTRAY

ORDER
20.04.2022

Order No.
05.

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

2. Present appeal by the insurer is directed against the judgment dated 8.11.2019 of learned 1st MACT, Kalahandi, Bhawanipatna in MAC No.94/2018 wherein learned Tribunal has granted compensation to the tune of Rs.42,25,705/- along with 7% interest per annum to the claimants from the date of filing of the claim application, i.e.10.10.2018 on account of death of the deceased in the motor vehicular accident dated 12.02.2018.

3. The main contention of challenge by the Appellant that the offending vehicle, i.e. Mahindra Bolero bearing Registration No.OD-08-C-9455 had no fitness on the date of accident.

4. Since the learned Tribunal has already granted right of recovery in favour of the Appellant for the same, no further interference on the same is called for.

5. It is next contended that the split multiplier method should be applied as the deceased has left with three more years of service only. This court earlier in the case of ***The Manager, M/s.Bajaj Allianz General Insurance Co. Ltd. vs. Santilata Satapathy and others***, (MACA No.171 of 2021 disposed of on 29.3.2022) has opined against application of split multiplier. On the same principle, the contention of the present Appellant here is also rejected.

6. Considering the remaining grounds of challenge with regard to quantum of compensation, a reduced compensation to the tune of Rs.40,00,000/- along with 6% interest is proposed to the parties in course of hearing. Mr. P.K. Mishra, learned counsel for the claimants-Respondent Nos.1 & 2 agrees to the same and Mr. A.A. Khan, learned counsel for the Appellant-Insurance Company leaves it to the discretion of the Court. The compensation amount is accordingly fixed to that extent.

7. The Appellant – Insurance Company is directed to deposit the reduced compensation of Rs.40,00,000/- (rupees forty lakhs) before the Tribunal along with interest @6% per annum from the date of filing of the claim application, i.e.10.10.2018 within a period of two months from today; where-after the same shall be disbursed in favour of the claimants on such terms and proportion

to be decided by the Tribunal. The right of recovery as granted by the learned Tribunal is confirmed.

8. 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.

9. The MACA is disposed of with aforesaid directions.

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

(B.P. Routray)
Judge

B.K. Barik