

IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA No.587 of 2016

From the Judgment / Order dated 30.07.2015 passed by the learned 3rd M.A.C.T., Puri in M.A.C Case No.68/149 of 2003/2002.

.....

Dolagobinda Sahoo

....

Appellant

-versus-

Baban Pradhan & Another

....

Respondents

For Appellant : M/s. Jitendra Mohanty &
R.P.Bhagat.

For Respondents : M/s. G.P.Dutta.

PRESENT:

THE HONBLE JUSTICE BIRAJA PRASANNA SATAPATHY

Date of Hearing: 25.04.2022 and Date of Order:04.05.2022

Biraja Prasanna Satapathy, J.

- 1.** This matter is taken up through Hybrid Mode.
- 2.** Heard Mr. Tahali Mohanty, learned Senior counsel with Mr. J. Mohanty, for the Appellant and Mr. G.P.Dutta, learned counsel for the Respondent No.2-Company.
- 3.** This appeal has been filed by the Claimant-Appellant seeking enhancement of the compensation awarded by the learned Tribunal vide the impugned judgment dated 30.07.2015 in M.A.C Case No.68/149 of 2003/2002 by the learned 3rd M.A.C.T., Puri.

4. It is submitted by the learned counsel for the Appellant that even though the claim application was filed claiming compensation of Rs.11,00,000/- and all the relevant documents were exhibited in support of the injury as well as disability of the injured appellant, but learned Tribunal without proper appreciation of the same, only allowed the compensation of Rs.4,90,600/- with interest @ 7 % per annum from the date of filing of the application till its payment.

5. It is also submitted that the Appellant sustained serious injury and because of that he has been declared as 60% disable, which is of permanent in nature.

6. It is also submitted that the said disability certificate was also exhibited vide Ext.10 without any objection.

7. It is accordingly submitted that in view of the nature of injury and percentage of disability and the status of the Appellant as a legal practitioner with around 20 years of practice, learned Tribunal should have allowed more compensation than what was awarded vide the impugned judgment.

8. Mr. Mohanty, learned Senior counsel for the Appellant accordingly prayed for enhancement of the said compensation suitably.

9. Mr. Dutta, learned counsel for the Respondent No.2 on the other hand submitted that even though the claim application was made with a claim of Rs.11,00,000/-, but the injured-claimant never examined himself as a witness and in absence of his examination, learned Tribunal rightly

accepted the fact that the disability in question is not of permanent in nature and accordingly awarded compensation of Rs.4,90,600/- with interest @ 7 % per annum.

10. It is also submitted that the compensation so awarded by the learned Tribunal has been paid in full.

11. It is accordingly submitted that no interference is called for by this Court with regard to the compensation awarded by learned Tribunal vide the impugned judgment.

12. Heard learned counsels appearing for the Parties at length.

13. Perused the materials available on record and after going through the materials placed before this Court, it is found that even though the Claimant-Appellant was not examined as a witness, but in support of his injury not only all relevant documents were filed and exhibited but also disability certificate showing 60% disability which is permanent in nature was exhibited vide Ext.10 without any objection.

14. It is also submitted in the bar that the Claimant-Appellant is a legal practitioner with around 20 years of practice and accordingly taking into account the nature of injury and the percentage of disability, more compensation should have been allowed by learned Tribunal.

15. In view of such rival stand taken by the learned counsel for the Parties and the view expressed in the Bar, this Court while interfering with the impugned judgment when came to a conclusion to enhance the compensation

by a further amount of Rs.2,00,000/- consolidated. Mr. Mohanty, learned Senior counsel for the Claimant-Appellant supported the said view of this Court.

16. Mr. Dutta, learned counsel for the Respondent-Company left the said view to the discretion of this Court.

17. In view of such stand taken by the learned counsel for both the Parties, this Court while interfering with the impugned judgment held that the Appellant is entitled to get further compensation of Rs.2,00,000/- consolidated. Accordingly, the Respondent-Company is directed to pay further compensation amount of Rs.2,00,000/- consolidated to the Appellant within a period of eight weeks from the date of receipt of this order.

18. It is observed that if the Respondent-Company fails to pay the aforesaid further compensation amount of Rs.2,00,000/- within the period indicated hereinabove, the Respondent-Company will be liable to pay interest @ 6% per annum on the said amount for the period beyond the expiry of the period of eight weeks till its payment.

19. With the aforesaid observations and directions, the MACA stands disposed of.

(Biraja Prasanna Satapathy)
Judge

Orissa High Court, Cuttack
Dated the 4th of May, 2022/Subrat