

IN THE HIGH COURT OF ORISSA AT CUTTACK
MACA No.187 of 2019

***Manager claims & Legal, Shriram
General Insurance Company Ltd.***

.... ***Appellant***

Mr. G.P. Dutta, Advocate

-versus-

Muna Maharana and Another

.... ***Respondents***

Mr. B.K. Behera, counsel for Respondent No.1

CORAM:
SHRI JUSTICE B. P. ROUTRAY

ORDER
27.10.2022

Order No.

- 08.
1. The matter is taken up through hybrid mode.
 2. Heard Mr. G.P. Dutta, learned counsel for the insurer - Appellant and Mr. B.K. Behera, learned counsel for the claimant – Respondent No.1.
 3. Present appeal by the insurer is against the impugned judgment dated 24th December, 2018 of the learned 5th MACT, Berhampur, Ganjam passed in MAC Case No.222 of 2014 wherein compensation to the tune of Rs.4,02,050/- along with interest @ 7% per annum from the date of filing of the claim application, i.e. 20th September, 2014 has been granted on account of injuries sustained by the injured – claimant in the motor vehicular accident dated 12th September, 2012.
 4. Mr. Dutta while advancing his challenge submits that the amount to the tune of Rs.3,00,000/- granted by the tribunal towards expenses for surgery is unwarranted since the surgery has not been proved on record.

5. Perusal of the impugned judgment reveals that in absence of any documentary evidence with regard to surgery undergone by the claimant, the tribunal by relying on the oral statement of the injured – claimant, has concluded that he underwent surgery of leg and did nailing. This conclusion of the Tribunal is thus not found supported with material evidence. However, considering the nature of injuries and the period of treatment, a reduced compensation of Rs.3,00,000/- along with 6% is proposed to the parties. This is agreed by Mr. Behera, learned counsel for the injured-claimant and Mr. Dutta, learned counsel for the insurer leaves it to the discretion of the court. Accordingly, the compensation amount is fixed to the said extent.

6. In the result the appeal is disposed of with a direction to the insurer - Appellant to deposit the reduced compensation amount of Rs.3,00,000/- (three lakhs) before the tribunal along with interest @ 6% per annum from the date of filing of the claim application, i.e. 20th September, 2014, within a period of two months from today, whereafter the same shall be disbursed in favour of the claimant – Respondent No.1 on such terms and proportion to be decided by the learned tribunal.

7. 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.

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

(B.P. Routray)
Judge