

IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA No.146 of 2020

**The New India Assurance Co. Appellant
Ltd.**

-versus-

Sasmita Rath & Ors. Respondents

**CORAM:
JUSTICE BIRAJA PRASANNA SATAPATHY**

**ORDER
06.07.2022**

Order No

- 06.** 1. This matter is taken up through Hybrid Arrangement (Virtual/Physical) Mode.
2. Heard Mr. Subha Bikash Panda, learned counsel appearing for the Appellant-Company and Mr. K.C. Nayak, learned counsel appearing on behalf of Claimants-Respondent Nos. 1 & 2.
3. This appeal has been filed by the Appellant-Company challenging the Judgment & award dtd.29.06.2019 passed in MAC Case No.488 of 2018 by the learned 3rd Addl. Sessions Judge –cum- 4th MACT, Cuttack.
4. Mr. Panda, learned counsel for the Appellant-Company submitted that learned Tribunal without considering the grounds raised by the Appellant-Company in its proper perspective held the Claimants-Respondents entitled to get compensation amount of Rs.16,32,400/- (Rs. Sixteen lakhs thirty two thousand four hundred)

along with interest @ 6% per annum payable from the date of application till its payment. It is further submitted that learned Tribunal while assessing the said compensation did not take into consideration the contention raised by the Appellant-Company regarding non-seizure of any document of the offending vehicle by the I.O. Learned Tribunal also did not take into consider the plea raised by the Appellant-Company regarding joint liability. It is also prayed that the compensation awarded by the learned Tribunal is on the higher side and needs interference of this Court.

5. Mr. Nayak, learned counsel appearing for the Claimants-Respondents though supported the impugned Judgment, but failed to satisfy this Court with regard to points raised by the learned counsel for the Appellant.

6. Heard learned counsel for the Parties. Perused the materials available on record. After going through the same, this Court when came to a finding that the Claimants-Respondents will be entitled to get compensation amount of Rs.15,00,000/- (Rs. Fifteen lakh) by keeping rate of interest so awarded by learned Tribunal intact, Mr. Nayak, learned counsel appearing for the Claimants-Respondents supported the said view of this Court. Mr. Panda, learned counsel appearing for the Appellant-Company left the same to the discretion of this Court.

7. In view of such stand taken by the learned counsel appearing for the Parties, this Court while interfering with the impugned Judgment held that the Claimants-Respondents entitled to get compensation amount of Rs.15,00,000/- (Rs. Fifteen lakh) by keeping intact the rate of interest so allowed by the learned Tribunal in its Judgment dtd.29.06.2019. This Court accordingly directs the

Appellant-Company to deposit the aforesaid compensation amount of Rs.15,00,000/- (Rs. Fifteen lakh) along with interest so awarded by the learned Tribunal before the said Tribunal within a period of eight (8) weeks from the date of receipt of this order.

8. It is further observed that on such deposit of the compensation amount along with interest, learned Tribunal shall disburse the same in favour of the Claimants-Respondents proportionately in terms of its order dtd.29.06.2019. It is however observed that if the Appellant-Company will fail to deposit the compensation amount so assessed by this Court within the time indicated hereinabove, the compensation amount of Rs.15,00,000/- (Rs. Fifteen lakh) will carry interest @ 7% per annum for the period starting from the expiry of the period of 8(eight) weeks till its payment.

9. It is further observed that only after deposit of 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 thereon from the Registry of this Court.

10. The appeal is disposed of in terms of the aforesaid observation and direction.

(Biraja Prasanna Satapathy)
Judge

Sneha