

IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA No.147 of 2020

M/s.New India Assurance Co. Ltd. *Appellant*
Mr. B.K. Mohanty, Advocate
-versus-
Ganeswar Hembram and another *Respondents*
Mr. B. Singh, Advocate for Respondent No.1

**CORAM:
JUSTICE B. P. ROUTRAY**

**ORDER
29.08.2022**

**Order No.
09.**

1. Heard Mr. B.K. Mohanty, learned counsel for the Appellant-Insurance Company as well as Mr. B. Singh, learned counsel for the Respondent No.1-claimant. It is submitted by Mr. Singh that Respondent No.1 died in the mean time on 28.01.2022. However, the parties are at liberty to take appropriate steps in this regard before the learned Tribunal in the claim application.

2. Present appeal by the insurer is directed against the judgment dated 10.01.2019 of learned M.A.C.T.-I, Balasore in M.A.C. Case No.173 of 2017 wherein compensation to the tune of Rs.9,14,000/- has been granted along with interest @7.5% per annum to the claimants from the date of filing of the claim application, i.e.,19.04.2017 on account of death of the deceased in the motor vehicular accident dated 06.03.2017.

3. Mr. B.K. Mohanty, learned counsel for the Appellant-Insurance Company submits that though the offending vehicle,

i.e. motorcycle bearing Registration No.OD-11-E-1120 was not involved in the accident, but has been implanted subsequently to manage the compensation and the same is fortified from the delay in lodging the FIR.

4. It is seen from the impugned judgment that the learned Tribunal has discussed the same at paragraph 8 in detail. No flaw is seen in the same since it is the consistent case of the claimant that he remained busy for treatment of his wife. The sole ground to allege implanting of the offending motorcycle in the accident is due to delay in lodging the FIR and no other material is brought on record to substantiate the contention. As such, no merit is seen in the same.

5. Considering the grounds raised with regard to quantum of compensation, a reduced compensation of Rs.7,50,000/- along with 6% interest is proposed to the parties in course of hearing. Mr. B. Singh, learned counsel for the claimant-Respondent No.1 agrees to the same and Mr. B.K. Mohanty, learned counsel for the Appellant-Insurance Company leaves it to the discretion of the Court. The compensation amount is accordingly fixed to that extent.

6. In the result, the Appellant – Insurance Company is directed to deposit the reduced compensation of Rs.7,50,000/- (rupees seven lakhs fifty thousand) before the Tribunal along with interest @6% per annum from the date of filing of the claim application, i.e. 19.04.2017 within a period of two months from today; where-

after the same shall be disbursed in favour of the claimant on such terms and proportion to be decided by the learned Tribunal.

7. 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.

8. The MACA is disposed of with aforesaid directions.

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

(*B.P. Routray*)
Judge

