

IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA No.187 of 2016

Binodini Rath

Appellant
....
Mr.B.P.Das, Advocate

-versus-

The Proprietor, ARSS Infrastructure Project Ltd. and another ***Respondents***

Mr.A.A.Khan, Advocate for Respondent No.2
Mr.P.K.Nayak, Advocate for Respondent No.1

CORAM:
JUSTICE B. P. ROUTRAY

ORDER
28.9.2022

Order No.

6.

1. The matter is taken up through Hybrid mode.
2. Heard Mr.Das, learned counsel for the Appellant-claimant and Mr.Nayak, learned counsel for Owner-Respondent No.1 as well as Mr.Khan, learned counsel for the Insurer-Respondent No.2.
3. Present appeal by the injured-Appellant is directed against the judgment dated 11th March, 2015 of the District Judge-Cum-Motor Accident Claims Tribunal, Rayagada, in M.A.C. Case No.45 of 2013, wherein compensation to the tune of Rs.3,80,000/- has been granted along with interest @6% per annum with effect from the date of filing of the claim application on account of injuries sustained by the claimant in the motor vehicular accident on 3rd July, 2011.

4. The sole contention of the injured-Appellant is that the Tribunal while assessing compensation amount did not add the cost of artificial leg used by the claimant.

5. Mr.Das submits that the claimant purchased prosthetic leg for Rs.60,000/-, which is to be replaced regularly after each five years.

6. Upon hearing Mr.Khan and perusal of copy of deposition of P.W.1 (Injured), it reveals that she has specifically stated about purchase of one artificial leg for use at the cost of Rs.60,000/-. The said statement of P.W.1 has never been disputed by the insurer in cross-examination. Admittedly, the injured-Appellant sustained amputation of left leg due to the injury sustained by her in the accident and as per the disability certificate, she suffered with 80% permanent disability. Therefore nothing is there to disbelieve the contention of the Appellant about use of prosthetic leg by purchasing the same. This aspect has not been considered by the Tribunal. Accordingly, considering such submission, the injured is found entitle for further compensation of Rs.1,50,000/- keeping in view her age at the time of accident.

7. In the result, the appeal is disposed of with a direction to the Insurer-Respondent No.2 to pay a further enhanced compensation amount of Rs.1,50,000/-(One lakh fifty thousand) along with interest @6% per annum from the date of filing of the claim application 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 fixed by the Tribunal.

8. The copy of deposition produced by Mr.Das is kept on record. Urgent certified copy of this order be granted on proper application.

(B.P. Routray)
Judge

C.R.Biswal

