

IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA No.1430 of 2016

**Divisional Manager, Oriental
Insurance Co. Ltd.**

Appellant

-versus-

Minati Naik & Ors.

Respondents

**CORAM:
JUSTICE BIRAJA PRASANNA SATAPATHY**

**ORDER
31.03.2022**

Order No

10. 1. This matter is taken up through Hybrid Mode.

2. Heard Mr. G.P. Dutta, learned counsel for the Appellant and Mr. B. Singh, learned counsel appearing for Claimant-Respondents.

3. This appeal has been filed by the Appellant-Company challenging the judgment dated 18.10.2016 passed in MAC Case No.93/199 of 2013/2011 by the learned 3rd MACT, Balasore.

4. Mr. Dutta, learned counsel appearing for the Appellant-Company while challenging the impugned judgment on

various grounds brought to the notice of this Court the ground No.3 for its consideration.

5. It is submitted by Mr. Dutta, learned counsel appearing for the Appellant that learned Tribunal without proper appreciation held the Appellant-Company liable though the vehicle insured with the Appellant-Company has not caused the accident. Accordingly, Mr. Dutta, learned counsel for the Appellant-Company prayed for interference of this court in the impugned judgment.

6. Per contra Mr. Singh, learned counsel appearing for the Claimant-Respondents while supporting the impugned judgment argued that learned Tribunal while assessing the compensation has miscalculated the annual dependency of Claimants at Rs.22,400/- (Rupees twenty two thousand four hundred). Because of such wrong assessment, the Claimants were deprived of higher compensation.

7. It is argued by Mr. Singh, learned counsel appearing for the Claimant-Respondents that learned Tribunal though rightly assessed the annual income of the deceased at Rs.43,200/- (Rupees forty three thousand two hundred), after deduction of 1/4th of the income towards his personal and living expenses, the annual dependency comes to Rs.32,400/- (Rupees thirty thousand four hundred). But learned Tribunal wrongly held the same at Rs.22, 400/- (Rupees twenty two thousand four hundred) and accordingly assessed the compensation at Rs.3,58,400/-

(Rupees three lakhs fifty eight thousand four hundred) by multiplying, multiplier 16.

8. Mr. Singh, learned counsel for the Claimant-Respondents accordingly prayed that taking into account the annual dependency at Rs.32, 400/- (Rupees thirty two thousand four hundred) the amount of compensation will come to Rs.5,83,400/-. Mr. Singh seeking enhancement of the compensation also brought to the notice of this Court, the cross appeal filed by the Claimant-Respondents.

9. The plea taken by the Appellant-Company in ground No.3 has been dealt with by the learned Tribunal and this Court finds no illegality on such finding of the learned Tribunal.

10. Having heard learned counsel for the Parties and in view of the error apparent in the impugned judgment in assessing the annual dependency of the Claimant at Rs.22, 400/- (Rupees twenty two thousand four hundred) in place of Rs.32,400/- (Rupees thirty thousand four hundred), this Court came to a finding that the Claimant-Respondents will be entitled to get compensation amount of Rs. 5,83,400/- (Rupees five lakhs eighty thousand four hundred) along with interest @ 6% per annum payable from the date of filing of the application i.e. 12.07.2011 till its realization.

11. Mr. Singh, learned counsel appearing for the Claimant-Respondents while supported the aforesaid view of this court. Mr. Dutta, learned counsel appearing for the

Appellant-Company left the same to the discretion of this Court.

12. In view of such stand taken by the respective counsels for both the Parties, this Court while interfering with the impugned judgment held that the Claimant-Respondents are eligible to get compensation amount of Rs.5,83,400/- (Rupees five lakhs eighty thousand four hundred) with interest @ 6% per annum from the date of filing of the application i.e. 12.07.2011 till its realization. This Court accordingly directs the Appellant-Company to pay the aforesaid compensation amount along with interest so assessed by this Court in favour of the Claimants-Respondents within a period of eight weeks from today. Only on deposit of the amount so assessed by this Court, learned Tribunal shall do well to disburse the same in proportion to the order earlier passed on 18.10.2016.

13. It is observed that only after payment of the aforesaid compensation amount with interest so assessed by this Court, Appellant-Company will be permitted to take refund of the statutory deposit from the Registry of this Court along with accrued interest on proper identification.

14. With the aforesaid observation and direction the Appeal is disposed of.

(Biraja Prasanna Satapathy)
Judge

Sneha