IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA No.118 of 2021

Anita Thamba & Ors.	**….**	**Appellants**
	-versus-	
Rabindra Kumar Sahoo & Anr.	**….**	**Respondents**

CORAM:
JUSTICE BIRAJA PRASANNA SATAPATHY

ORDER
23.06.2022

Order No

06. **1.** This matter is taken up through Hybrid Arrangement (Virtual/Physical) Mode.

2. Heard Mr. B.N. Samantaray, learned counsel appearing for the Appellants and Mr. P.K. Mahali, learned counsel appearing on behalf of Respondent No. 2.

3. This appeal has been filed with a prayer to enhance the compensation amount to Rs. 45,48,647/- (Rs. Forty five lakhs forth eight thousand six hundred forty seven) over and above the awarded amount with full cost and interest @ 9% per annum from the date of filing of the appeal till its payment.

4. It is submitted that learned Tribunal without proper appreciation of the materials available on record only allowed compensation amount of Rs.7,80,000/- (Rs. Seven lakh eighty thousand) with interest @ 6% per annum payable from the date of application till its payment.

5. Mr. Samantaray, leaned counsel appearing for the Appellants submitted that before the learned Tribunal though the Claimant-Appellant filed the IT returns of the deceased for the year 2012-2013 and 2013-2014, but those returns were neither exhibited nor taken into consideration by the learned Tribunal while assessing the monthly income of the deceased.

6. It is further submitted that had the said documents being taken into consideration the monthly income of the deceased should have been assessed at a higher rate. But the learned Tribunal illegally held the monthly income of the deceased at Rs.4,500/- (Rs. Four thousand five hundred) i.e. on notional basis. Because of such illegality in assessing the monthly income notionally, the Claimants-Appellants were deprived from getting higher compensation. Accordingly, it is prayed by the learned counsel for the Appellants that the compensation so awarded needs further enhancement.

7. Mr. Mahali, learned counsel appearing for the Respondent-company on the other hand while supporting the impugned judgment submitted that since the alleged IT returns were never exhibited, there is no scope on the part of the learned Tribunal to take those returns into consideration while assessing the monthly income. Accordingly, it is submitted that the award has been rightly passed and the entire awarded amount along with interest has been satisfied by the Respondent-Company. It is accordingly submitted that the Appellants are not entitled to get any further compensation.

7. Heard learned counsel for the Parties at length. Perused the materials available on record. Since it is submitted by the learned counsel appearing for the Appellants that the Appellants filed the IT returns for the year 2012-2013 and 2013-2014 before learned Tribunal and the said returns were neither exhibited nor taken into consideration, this Court is of the prima facie view that the learned Tribunal should have dealt with those IT returns in its proper perspective.

8. In view of such specific stand taken in the appeal, this Court deems it fit and proper to remand the matter to the learned Tribunal for fresh adjudication with regard to the claim for enhancement of the compensation amount.

10. It is however observed that if no such IT returns were filed as alleged by the Appellant, then learned Tribunal will be free to take its own view in that matter and this Court has not expressed any opinion on the same.

11. Since the accident is of the year 2014, learned Tribunal is directed to take a fresh decision within a period of six(6) months from the date of receipt of the order by giving due opportunity of hearing to all the parties concerned.

12. The appeal is disposed of with the aforesaid observation and direction.

(Biraja Prasanna Satapathy)
Judge

Sneha