

IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA NO.1161 OF 2016 & MACA NO.145 OF 2017

MACA NO.1161 OF 2016

From the judgment dated 30.8.2016 passed by the learned
5th M.A.C.T, Khurda in M.A.C Case No.180 of 2011.

.....
Mamata Panigrahi & Others Appellants

-versus-

Pradipta Ku. Swain Respondents
Another

For Petitioner: M/s. B.N. Rath, Advocate

For Opp. Parties: M/s. Gautam Mishra,
Senior Advocate

MACA NO.145 OF 2017

From the judgment dated 30.8.2016 passed by the learned 5th
M.A.C.T, Khurda in M.A.C Case No.180 of 2011.

.....
National Insurance Co. Ltd Appellant

-versus-

Mamata Panigrahi & Others Respondents

For Petitioner : M/s. Gautam Mishra,
Senior Advocate

For Opp. Parties: M/s. B.N. Rath, Advocate

PRESENT:

THE HON'BLE JUSTICE BIRAJA PRASANNA SATAPATHY

Date of Hearing: 10.05.2022 and Date of Order:17.05.2022

Biraja Prasanna Satapathy, J.

1. This matter is taken up through Hybrid Mode.

2. Since both the appeals arise out of a common judgment, the same are taken up analogously for hearing and disposed of by this common order.

3. Heard Mr. B.N. Rath, learned counsel for the claimants, Mr. K. Panigrahi, learned counsel appearing for the owner and Mr. Gautam Mishra, learned Senior Counsel appearing for the company-insurer.

4. Both the appeals have been filed challenging the judgment dated 30.8.2016 passed in M.A.C. Case No.180 of 2011 by the learned 5th M.A.C.T, Khurda.

5. It is submitted by Mr. Rath, learned counsel for the claimants that learned Tribunal without proper appreciation of the claim so raised by them and without applying judicial mind, allowed compensation of Rs.27,24,483/- only along with interest @ 6% per annum payable from the date of application till its realization.

6. Mr. Rath, learned counsel appearing for the claimants accordingly submitted that the compensation awarded by the learned Tribunal needs further enhancement by this Court.

7. Per contra, Mr. Mishra, learned Senior Counsel appearing for the insurer on the other hand submitted that learned Tribunal while directing for payment of compensation of Rs.27,24,483/- has illegally assessed the income of the deceased at the higher side and also included the father and brother as the dependant of the deceased.

8. It is submitted that as the father of the deceased was a pension holder and brother of the deceased otherwise employed, they will not come under the category of dependant of the deceased. Mr. Mishra, accordingly submitted that the appellants are not entitled to get the compensation so awarded by the learned Tribunal and prays for interference of this Court on the same.

9. Heard learned counsel for the parties at length. Perused the materials available on record.

10. This Court after going through the same finds that learned Tribunal without any supporting documents held that learned Tribunal has assessed monthly income at the higher side and also illegally included the father and brother of the

deceased as dependants and awarded compensation in that regard.

11. Therefore, taking everything into consideration, this court when came to a conclusion that the claimants-respondents will be entitled to get compensation of Rs.22,00,000/- with interest @ 6% interest per annum payable from the date of application i.e. 12.1.2011 till its realization. Mr. Rath, learned counsel for the claimants supported the said view of this Court. Mr. Mishra, learned counsel appearing for the insurer-company left the said view to the discretion of this Court.

12. In view of such stand taken by the learned counsel appearing for both the parties, this Court while disposing both the appeals directs the insurer-company to pay compensation amount of Rs.22,00,000/- along with interest @6% per annum payable from the date of application till its realization within a period of eight weeks from the date of receipt of this order.

13. It is observed that the insurer-company shall deposit the aforesaid compensation amount along with interest within the time indicated hereinabove before the learned Tribunal. It

is further observed that on deposit of the entire amount by the company (insurer) before the learned Tribunal, learned Tribunal shall disburse the same in favour of the claimants proportionately and in terms of the order passed on 30.8.2016.

14. It is, however, observed that if the insurer-company will fail to deposit the compensation amount along with interest within the time indicated hereinabove before the Tribunal, then the claimants will be entitled to get interest @ 7.5% per annum on the compensation amount of Rs.22,00,000/- for the period starting from expiry of period of eight weeks till its payment.

15. It is also observed that only after deposit of the entire amount in terms of the order passed by this Court, the insurer-company shall be permitted to take refund of the statutory deposit along with accrued interest from the Registry of this court on proper identification.

16. The MACAs are accordingly disposed of.

(Biraja Prasanna Satapathy)
Judge

Orissa High Court, Cuttack
Dated the 17th of May, 2022/sangita