

IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA NO.214 OF 2020

From the Judgment/Order dated 07.11.2019 passed by the learned 1st MACT, Jajpur in MAC Case No.166/2016.

The Divisional Manager, M/s. **:::** **Appellant**
Oriental Insurance CO. Ltd.

-:: VERSUS ::-

Manjula Naik & Ors.  **Respondents**

Appeared in this case by Video Conferencing Mode / Hybrid Mode.

For Appellant :::: Mr. A.A. Khan, Advocate
(for Appellant)

For Respondent ::: Mr. P.K. Behera, Advocate
(for Respondent Nos.1 & 2)
Mr. P.K. Mishra, Advocate
(for Respondent No. 3)

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PRESENT :

THE HON'BLE MR. JUSTICE B.P.SATAPATHY

Date of Hearing- 29.06.2022:: Date of Order- 12.07.2022

B.P.Satapathy, J. This matter is taken up through Hybrid Arrangement (Virtual/Physical) Mode.

2. Heard Mr. A.A. Khan, learned counsel appearing for the Appellant-Company and Mr. P.K. Behera, learned counsel appearing on behalf of Claimant-Respondent Nos. 1 & 2 and Mr. P.K. Mishra, learned counsel appearing for the Respondent No. 3.

3. This appeal has been filed by the Appellant-Company challenging the Judgment dtd.07.11.2019 passed by the learned 1st MACT, Jajpur in MAC Case No.166 of 2016.

4. Mr. Khan, learned counsel for the Appellant submitted that learned Tribunal without proper appreciation of the grounds taken, allowed the compensation on the higher side and the Claimants-Respondents are not entitled to get compensation amount of Rs.29,17,080/- (Rs. Twenty nine lakh seventeen thousand eighty). Mr. Khan in support of his stand as taken in the appeal submitted that since the deceased was aged about 55 years at the time of accident and would have retired after 5 years, his monthly income should have been reduced by 50%. Mr. Khan also submitted that learned Tribunal illegally awarded a sum of Rs.1,20,000/- (Rs. One lakh twenty thousand) toward general damages in place of Rs.70,000/- (Rs. Seventy thousand). Mr. Khan accordingly prayed for interference of this Court with the impugned Judgment.

5. Mr. Behera, learned counsel appearing for the Claimants-Respondent Nos.1 and 3 submitted that the Claimants are entitled to get more compensation as the learned Tribunal while assessing the compensation has not taken into consideration the monthly income of the deceased, who has admittedly serving as a V.L.W with monthly income of Rs.31,786/- (Rs. Thirty one thousand

seven hundred eighty six). The Claimants are also filed the cross appeal in that regard and for enhancement of the compensation.

6. Heard learned counsel for the Parties at length. Perused the materials available on record. This Court after going through the same when held that the Claimants-Respondents will be entitled to get compensation amount of Rs.30,00,000/- (Thirty lakhs) by keeping the rate of interest so allowed by the learned Tribunal as intact, Mr. Behera, learned counsel appearing for the Claimants-Respondents supported the said view of this Court. Mr. Khan, learned counsel appearing for the Appellant-Company left the said view to the discretion of this Court.

7. In view of such stand taken by the learned counsel appearing for both the Parties, this Court while interfering with the impugned Judgment held that the Claimants-Respondents will be entitled to get compensation amount of Rs.30,00,000/- (Rs. Thirty lakh) along with interest so awarded by the learned Tribunal in its order dtd.07.11.2019. This Court accordingly directs the Appellant-Company to deposit the aforesaid compensation amount of Rs.30,00,000/- (Rs. Fifteen lakh) along with interest so awarded by the learned Tribunal before learned Tribunal within a period of eight (8) weeks from the date of receipt of this Order.

8. It is directed that on such deposit of the compensation amount along with interest within the time indicated hereinabove, learned Tribunal shall disburse the same in favour of the Claimants-Respondents proportionately in terms of its order dt.07.11.2019. It is however observed that if the Appellant-Company will fail to deposit the amount so assessed by this Court

within the time indicated, then the compensation amount of Rs.30,00,000/- (Rs. Thirty lakh) will carry interest @ 7% per annum for the period starting from the expiry of the period of 8(eight) weeks till its payment.

9. It is further observed that only after deposit of entire amount along with interest before the learned Tribunal as directed hereinabove, the Appellant-Company shall be permitted to take refund of the statutory deposit along with accrued interest thereon from the Registry of this Court.

10. The appeal is disposed of in terms of the aforesaid observation and direction.

(Biraja Prasanna Satapathy)
Judge

Orissa High Court, Cuttack
The 12th July, 2022/Sneha

