

IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA No.157 of 2022

ICICI Lombard Motor Insurance ***Appellant***

Mr. G.P. Dutta, Advocate

-versus-

Basanti Das and others ***Respondents***

Mr. K. Rath, Advocate for Respondent Nos.1 to 4

CORAM:

JUSTICE B. P. ROUTRAY

ORDER

26.10.2022

Order No.

07.

1. Heard Mr. G.P. Dutta, learned counsel for the Appellant-Insurance Company as well as Mr. K. Rath, learned counsel for the Respondent Nos.1 to 4-claimants.

2. Present appeal by the insurer is directed against the judgment dated 21.12.2021 of learned 4th M.A.C.T., Cuttack in M.A.C. Case No.222 of 2010 wherein compensation to the tune of Rs.11,98,000/- has been granted along with simple interest @6% per annum to the claimants from the date of filing of the claim application, i.e.27.04.2010 on account of death of the deceased in the motor vehicular accident dated 16.11.2008.

3. Mr. G.P. Dutta, learned counsel for the Appellant-Insurance Company submits that the involvement of the offending vehicle in the alleged accident is not at all established and therefore, the claimants are not entitled for any compensation. In support of his contention, it is submitted that neither the Police has submitted its

final report against the offending vehicle nor its driver and none of the witnesses have said to have seen the accident.

4. It reveals from the copy of the deposition of P.W.2, namely, Toofan Das that he has seen the accident when the Truck bearing Registration No.OR-09-K-4414 dashed the deceased. In addition to such evidence of P.W.2, it is seen that the owner has admitted about the accident and involvement of the offending vehicle in the accident. Therefore, no such case is made out in favour of the insurer to disbelieve the case of the applicants regarding non-involvement of the offending vehicle. Hence the contention raised by Mr. Dutta is rejected.

5. With regard to quantum of compensation, considering all such grounds advanced, a consolidated sum of Rs.18,00,000/- (rupees eighteen lakhs) is proposed to the parties in course of hearing. Mr. K. Rath, learned counsel for the Respondent Nos.1 to 4-claimants agrees to the same and Mr. G.P. Dutta, learned counsel for Appellant-Insurance Company leaves it to the discretion of the Court. The compensation amount is accordingly fixed to that extent.

6. In the result, the Appellant – Insurance Company is directed to deposit the consolidated amount of Rs.18,00,000/- (rupees eighteen lakhs) before the Tribunal within a period of two months from today; where-after the same shall be disbursed in favour of the claimants on such terms and proportion to be fixed by the Tribunal.

7. On deposit of the award amount before the learned Tribunal and filing of a receipt evidencing the deposit with a refund application before this Court, the statutory deposit made before this Court with accrued interest thereon shall be refunded to the Appellant-Insurance Company.

8. The MACA is disposed of with aforesaid directions.

9. The copies of the depositions filed by Mr. G.P. Dutta, learned counsel for the Appellant are kept on record.

10. An urgent certified copy of this order be granted on proper application.

(*B.P. Routray*)
Judge

